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by the Department of the Treasury's reversal of policy with regard to the Customs air program. My subcommittee, on which the Senator from Arizona serves as ranking member, was intimately involved in the negotiations between the Department of the Treasury and Department of Defense regarding air support for the Customs Service. DOD agreed that aircraft would be provided to the Customs Service to detect, track, and intercept. The only concern DOD had was that the equipment loaned would not be adequately maintained. To assure Defense of our commitment, a new appropriations account totaling \$31 million was included in the fiscal year 1984 appropriation to provide operations and maintenance funding for the loaned aircraft.

The drug problem in this country is epidemic. We are fighting a war, Mr. President. Unfortunately the other side is better funded and better equipped. I am committed to winning that war, but to do that I fully believe we must provide the support necessary to men and women of the Department of the Treasury, Justice, Transportation, and Defense who are performing that difficult task. The Customs air program is an integral part of that effort.

The fiscal year 1985 Treasury request for the air program and other Customs efforts is significantly reduced from fiscal year 1984. It is based on the premise that the Department of Defense is going to pick up the O&M costs. Mr. President, the simple truth is that DOD has no intention of covering operation and maintenance costs. That was never part of the original agreement. In fact the basis of the agreement was that Customs would provide proper maintenance.

Last week, the Deputy Secretary of the Treasury testified before a House subcommittee that it no longer should be in the detection business, but concentrate on tracking and interception. Mr. President, this revelation came as an incredible surprise to me for I received a request on March 13 from the Commissioner of Customs requesting reprogramming authority which continued the detection mission by proceeding with the P3A conversion program. I wholeheartedly agreed. Then last week the 180-degree change.

This amendment does that. It provides funding to give the Customs Service the equipment they need to continue the fight. I hope my colleagues will agree with me and support the amendment.

Mr. President, as I close, I want to reemphasize that we are in a war. We are spending an unprecedented amount on the battle, but quite frankly we are losing ground. These days we must watch very closely at the way we spend the money available to us. Not many Members of the body watch it much closer than I do. I do not oppose money well spent. I assure you this will be money well spent.

Mr. HATFIELD. Mr. President, I only want to say in behalf of the managers of the bill that we are willing to accept the amendment, if the Senator would like to move its adoption.

Mr. DECONCINI. I so move, Mr. President.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2858) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I thank the distinguished chairman and also the chairman of the Foreign Operations Subcommittee for permitting me to offer my amendments at this time, as well as the distinguished Senator from Hawaii for setting aside his amendment, and also the distinguished Senator from Massachusetts, and certainly the Senator from New York, who has been waiting around for some time.

The PRESIDING OFFICER. Under the previous order, the Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, in this pending appropriation bill, the Senate is being asked to provide an additional \$21 million for paramilitary activity in Nicaragua. The specific language of the report of the Committee on Appropriations is:

The committee recommends an appropriation of \$21 million to continue a program of covert assistance in Central America * * *

In November of last year this body authorized, by voice vote, \$24 million for the same program. As I noted then, despite some differences between the House and the Senate over this program there was one fundamental point on which the House and Senate Intelligence Committees agreed. This agreement was reflected in section 109 of the Intelligence Authorization Act for fiscal year 1984 which repeated findings found earlier in the House's authorization bill:

The Congress finds that by providing military support (including arms, training, and logistical, command and control, and communications facilities) to groups seeking to overthrow the government of El Salvador and other Central American governments, the Government of National Reconstruction of Nicaragua has violated Article 18 of the Charter of the Organization of American States which declares that no state has the right to intervene, directly or indirectly, for any reason whatsoever, in the internal or external affairs of any other state.

It is the judgment of the Intelligence Committee that Nicaragua's involvement in the affairs of El Salvador and, to a lesser degree, its other neighbors, continues. As such, our duty, or at very least our right, now as it was then, is to respond to these violations of international law and uphold the charter of the OAS.

Specifically, arms and materiel still flow from the Communist bloc through Nicaragua to the insurgents in El Salvador. Yesterday, many of my colleagues will have read the reports in various newspapers about testimony of the Under Secretary of Defense for Policy, Fred C. Iklé, in which he confirmed that approximately half the weapons used by the Salvadoran guerrillas were captured or acquired from the Salvadoran Armed Forces. This is undoubtedly true. It is also true, however, that the other half, or the greater part thereof, come via Nicaragua and further that the intelligence community's latest and best estimate is that a predominant percentage of their ammunition, about 80 percent, still comes via Nicaragua. Estimates about the remaining materiel is similar. What the House Intelligence Committee stated last May is in our judgment still true:

[The insurgency in El Salvador] depends for its lifeblood—arms, ammunition, financing, logistics, and command-and-control facilities—upon outside assistance from Nicaragua and Cuba.

In sum, the Sandinista support for the insurgency in El Salvador has not appreciably lessened; nor, therefore, has their violation of the OAS Charter abated.

As I have attempted to indicate, there is in a certain sense little that is new here. However, I do wish to make some additional comments.

Given the extraordinary patriotism and sacrifice of so many of the men and women who make up our intelligence community, it may at times seem unreasonable and wrong that there continues to be such apprehension about the role of that community and its attendant institutions, especially the Central Intelligence Agency. May I suggest, however, that this apprehension arises in much the way that in early times our forebears feared the idea of a standing army, and were at great lengths to achieve parliamentary control over military expenditure, including the now perhaps antique but once vital procedure of annual military appropriations.

The fact is that a standing intelligence community can be used by a Chief Executive to subvert the will of Congress and of the people. Given that fact, it is our proper business to be concerned, even as we assert our utmost respect and regard for the institutions which pose this threat.

I believe there is a tendency on the part of this administration—as of prior ones—to substitute secret policies and secret actions for public policies and public actions in foreign affairs. The reason is simple. Covert action seemingly circumvents the invariably complex and demanding, and frequently unavailing effort required to achieve a democratic consensus in matters of foreign policy. When such a consensus could be achieved, the resort to covert action instead is a form of avoidance

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of duty. When such a consensus could not be achieved, covert action subverts the democratic process.

The general question arises for us in the most specific form in the appropriation bill we are considering today.

Last November 3 I was the manager on this side of the aisle for the Intelligence Authorization Act for fiscal year 1984. That act contained funds for the present program of support for several insurgent groups operating in Nicaragua. The legislation was as open in this regard as such legislation could be. In a floor statement, I described the process by which the committee had come to accept a strictly limited set of objectives for that program. An earlier Presidential finding submitted for comment to the committee had been, in our view, much too expansive. It would have constituted undue interference in the internal affairs of Nicaragua, which was the ground on which we were willing to support opposition to such interference by Nicaragua in the affairs of others.

I stated at the time in some detail that sequence:

On September 20, a new Presidential Finding was presented to the Committee by Director Casey and the Secretary of State, George P. Shultz. Its goals were more precise and much more limited than what we had been briefed on in August. In large measure, the new finding reflected the concerns the Committee had raised with Director Casey in that prior meeting. The next day the Committee approved funding for the redefined program.

Not unexpectedly, an account of our decision found its way into the nation's papers the following day (September 22, 1983). Of particular interest was the discussion of the matter in the New York Times which quoted an Administration official as saying:

We are always being questioned . . . on whether we were going beyond our program of interdicting arms. Now we say, "Yes, we are supporting the rebels until the Nicaraguans stop their subversion in neighboring countries."

The article went on to say that:

The Administration official stressed that this approach should end the argument over whether the Administration was violating its pledge by doing more than just stopping the arms flow. The official also said that there was no thought of the Administration backing the insurgents in trying to overthrow the Sandinista Government.

This was a welcome statement. Thereafter the committee voted moneys for the new finding.

This morning, however, we read an interview with the President given to Mr. Francis X. Clines and Steven R. Weisman of the New York Times in which the President specifically states that our objectives in Nicaragua are precisely those which the select committee rejected. Our present formal policy, the policy for which Congress has appropriated these funds, is not directed to the overthrow of the Government of Nicaragua, or otherwise to interfere unduly in its internal affairs. The President, however, states otherwise:

And I see no dichotomy in our supporting the Government, the democratic govern-

ment of El Salvador and the Contras here—and we made it plain to Nicaragua—made it very plain that this would stop when they keep their promise and restore the democratic rule and have elections. Now, they've finally been pressured, the pressure's led them to saying they'll have an election.

The President goes on to say that there is nothing to indicate that this election will be other than "the kind of rubber stamp that we see in any totalitarian government." In this I agree. But note: If the government there cannot be changed by elections, how is it to be changed save by violent overthrow? That is a necessary if unintended conclusion to be drawn from the President's statement yesterday.

This is understandable. The President desires a democratic government in Nicaragua. Who does not, save the present rulers of that unhappy nation? But Congress has not authorized a covert action program to bring about any such outcome. To do so would undermine the very legal foundation on which we base the program we have authorized.

Has the President deceived us? I doubt this; it is not his nature, nor that of his associates. Rather, I would suggest that there is an inherent tendency for an administration gradually to adopt the agenda of the foreign instruments of covert action, even when that agenda increasingly diverges from the goals which we, the United States, set out to accomplish. That may be too complex a way to state a simple truth. What the Nicaraguans fighting the Sandinistas want and what we want are different things.

That of course is the frequent personal tragedy associated with covert action, and further argues its sparing use as an instrument of American policy.

But that is a subject of general policy that can wait. What must be stated today is that the President has misstated his own policy. If we vote today, or tomorrow, to approve the additional \$21 million recommended by the committee, we do not vote to do what the President says he would like to see done. We vote simply and exclusively for the provisions of the Presidential finding of September 20, 1983.

I am sorry to detain the Senate in this matter, and obviously I am uneasy to bring such matters into yet more public debate. But I take that to be my responsibility, given this extraordinary, wholly unexpected, and deeply troubling turn of events.

In sum, the danger of using covert programs in this fashion is that they run too far ahead of the public consensus over what constitutes threats to our security and the proper policies to respond to those threats. There is a grave risk here that Americans may decide, as they did a little more than a decade ago, that the Government does not reflect their judgment. This is no small matter for a democracy. As I warned a previous President just before his inauguration, "The sense of institutions being legitimate—especial-

ly the institutions of government—is the glue that holds society together. When it weakens, things come unstuck."

Mr. INOUE. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the distinguished Senator from Hawaii.

Mr. INOUE. Mr. President, the Senator's clarifying statement on the legislative intent of the action taken by the Senate Select Committee on Intelligence in authorizing the \$21 million is absolutely correct. I think the record of our committee, although classified and secret, will bear this out. So, if I may, I should like to associate myself with the Senator's statement. It is correct, it is precise, and it is one that should be studied very carefully by every Member of this body.

Mr. MOYNIHAN. Mr. President, I thank the distinguished senior Senator from Hawaii, the manager of this measure, for his reassuring remarks, which are exactly my understanding of the matter.

Mr. DURENBERGER. Mr. President, I rise on this occasion to compliment the Senator from New York on his statement and to thank our colleague on the Select Committee on Intelligence, the Senator from Hawaii, for associating himself with these comments. I, too, associate myself with the statements made by the distinguished Senator from New York.

I had not intended to comment at any length on this subject, but the point that the Senator from New York makes about the statement of the President of the United States, which we all read this morning, compels us—at least, it compels me—to rise and share a few thoughts with our colleagues on this subject, because it probably illustrates if not the difficulty of making policy in this area, at least the difficulty for others to understand whatever policy may exist.

I was personally associated with the effort the Senator described, which began last spring and carried through the summer, until September 20, and I was pleased with the outcome. I thought that whether in a bipartisan sense or an institutional sense, we had been quite successful in discharging our responsibilities, as the Senator indicated, for policy in Nicaragua.

Mr. President, the executive branch request for additional funds for its covert activities regarding Nicaragua presents all of us with a difficult choice. It is especially significant, therefore, that the Intelligence Committee voted with no dissents to support a limited, carefully monitored increase in those funds.

The risks inherent in this operation are well known. Support for paramilitary operations could provide the spark that ignites a real war in the region. Paramilitary activities could also bring other countries into the conflict; the reported injury to five

Soviet seamen due to a mine in Puerto Sandino harbor reminds us of that risk. An unsuccessful paramilitary campaign may increase, rather than undermine, the legitimacy of the Sandinista regime. And a moderately successful campaign could lead to a situation in which counterrevolutionary forces, with goals of their own, could draw the United States into greater involvement than was intended or was wise.

I am satisfied that the Central Intelligence Agency is doing all that it can to minimize these risks. In particular, the CIA is not trying to overthrow the Government of Nicaragua. And the CIA does bear in mind the need not to provoke a wider conflict that would harm U.S. interests. The Intelligence Committee's action last year, which required the executive branch to reexamine its program and revise its covert action finding, served a useful purpose.

I am also impressed by the extent to which people in Central America, including democratic and left-of-center elements in Costa Rica, fear the aggressive policies of Nicaragua. To its neighbors, the Sandinista regime is not reformist, or even revolutionary. Rather, the Sandinista leaders are the prime supporters of both terrorism and guerrilla violence in Central America. They supply arms and ammunition not only to insurgents in El Salvador, but also to terrorists and guerrillas in Honduras, Guatemala, and Costa Rica. They even harbor Basque terrorists, who repay the favor by undertaking assassination missions in Costa Rica.

Little wonder, then, that the people of Central America urge us to counter these Sandinista efforts, which have been described eloquently by the Senator from New York. And little wonder that the Intelligence Committee is willing to support a carefully controlled covert action program.

It is important to note, moreover, that we are not giving the CIA a completely free hand with these funds. While \$7 million in new funds will be made available immediately, the other \$14 million will be put in the CIA's reserve for contingencies. They will have to come back to us and explain what they are doing and why the extra funds are needed, before they gain access to that additional money.

Yet it was still difficult to support increased funding for this program. There is no real evidence that the covert action effort, itself, has brought about changes in Sandinista policy. There is no real evidence that it has lessened the flow of Cuban and Nicaraguan arms into El Salvador, although the contras are clearly striking at some targets that are part of the Sandinista support structure for Salvadoran guerrillas.

Most importantly, there is no real evidence that the executive branch yet has a coherent policy to guide either this covert action program or the sev-

eral overt arms of policy that are employed in Central America.

The executive branch has fine goals: An end to Sandinista support for guerrillas and terrorists; an end to Soviet and Cuban advisers in Nicaragua; scaling down of the tremendous military buildup in Nicaragua; and the preservation of a pluralist political system in Nicaragua, as the Sandinistas originally promised. But the executive branch continues to lack a means of deciding how much emphasis to put on each goal, as one must always do in the real world.

Similarly, the executive branch has an impressive set of measures it has undertaken to influence the situation: Not only covert action, but also military assistance; maneuvers and training; economic aid; and political support both for needed reforms in individual countries and for the Contadora effort of Central American countries to negotiate a solution to their problems. The difficulty is that there seems to be no real coordination of these efforts.

I wish I could assure my colleagues, as long as I speak from this side of the aisle, that covert activities directed at Nicaragua were carefully coordinated with a serious effort to negotiate our differences with that country. I wish I could say that our military assistance efforts in the region were designed also to further the economic and political reforms that we all agree are necessary in several countries. I wish I could say that the executive branch was carefully fine tuning both its actions and its objectives so as to achieve maximum success in the region. But my colleague from New York has demonstrated in his remarks why I cannot make that claim.

The best I can say is that many of us are trying to convince the executive branch to get its act together. In the meantime, we are supporting current initiatives to keep the pressure on Nicaragua and to keep the Central America situation under control.

But I hope, Mr. President, that President Reagan appreciates the depth of our concern. The current policy may have our support, but it does not yet merit our confidence. The President must take control of that policy and give it coherent direction.

There are bound to be further crises down the road—due not to Congress, but to the difficult nature of the problems in Central America. Covert action is not enough. Even covert action plus half a dozen other, uncoordinated measures are not enough.

There must be well crafted policy and consistent direction of U.S. efforts in Central America. That is what leadership is about, and we look to our President to provide it before it is too late.

Mr. MOYNIHAN. Mr. President, may I express my total admiration for and agreement with the statement of the Senator from Minnesota. It is a moderate statement. It is a careful

one. It is a plea for coherence and an offer of cooperation.

I think I would not reveal anything not known and public to observe that it was not until April 1983 that the President came to Congress to discuss Central America, by which time the press reports of covert action in that region had been taking place for 14 months; and that it was not until some time after the President spoke that a bipartisan commission was established and came forward with a much more coherent and comprehensive statement of the matter.

We do not want to obstruct, but we have an obligation to say: Do you, Mr. President, have a policy and can we help you formulate one, and do you know where this is getting to?

I hope that we might have some response from the statements which the three of us have made today, and we make them not in an accusatory manner. It is a factual and descriptive one, at least in our view it is. Some of the facts cannot be in doubt, and I hope there will be some response, and I certainly am here as one willing to partake in any such effort, as the Senator from Minnesota has been, but it is alarming to find our message does not seem to have been received.

Mr. DURENBERGER. Mr. President, I thank my colleague a great deal.

I do not intend to belabor this issue any more. I do have another issue I wish to discuss.

Mr. MOYNIHAN. Mr. President, will the Senator yield to me one moment?

Mr. DURENBERGER. I yield.

Mr. MOYNIHAN. Mr. President, in recent days we have heard much about the mines in Nicaragua ports and the concerns that have been expressed about the legality and wisdom of the tactics.

I asked the Honorable Kenneth Dam, Deputy Secretary of State, to provide a legal analysis on the issues of mines and self-defense both in a classified and unclassified form.

In his characteristically cooperative manner he did that. These statements are available in the Intelligence Committee. If any Member of the body wishes to read them, we will, of course, be more than happy to make them available.

I thank the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I had at this point intended to offer an amendment dealing with the subject of conditionality. I do not intend to do so, but I wanted to take a few minutes to express some concerns that I understand are shared in part by quite a number of my colleagues and also in an additional part are being dealt with at this moment in the Foreign Relations Committee.

Mr. President, a growing number of us in Congress have been discussing and debating the question of our policy in Central America for as long

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as I have been in the Senate. We have considered such questions as emergency foreign assistance for Nicaragua shortly after the Somoza regime was toppled; military and economic assistance for El Salvador as that country struggles with its problems; increased trade and aid benefits for the countries of the Caribbean Basin; the commitment of U.S. troops to training exercises in Honduras. Every day, most of us deal with these and other questions in numerous ways. We deal with them in conversations with our friends and colleagues; in responses to our constituents; in our reading at night, and our staff meetings at day.

But I wonder, Mr. President, just how much effect all our work has really had. Can we really say that we know much more about these complex questions than we did 5 years ago? Can we really say that our debate and our concern has done much to alter events? In my opinion, I do not think we can.

Today, we are considering an emergency supplemental appropriation which contains, among other things, a large sum of money for El Salvador. But it is not clear that we are really debating any kind of national policy. Certainly, we have touched on a wide variety of issues during this debate, ranging from the recent elections to the battlefield situation. But I cannot figure out how we have fitted these things together in any kind of way that gives us a sense of what U.S. policy really is or what we feel U.S. policy should be.

We have heard talk about having to support and live with the President who emerges from the Salvadoran elections, and we have heard talk about how our vote on this bill might be affected by who that President is, but I am disturbed that little attention has been paid to how this relates to the concerns of the American people. What is our policy to be? For how long? At what cost? And how will we handle the various contingencies which might radically affect the situation throughout Central America? As we have learned, events often move faster than our policies, particularly in Central America, but my fear is that we have no sense of what plans we might adopt in the event of changes.

When Central America first became a major item on our agenda, following the revolution against Anastasio Somoza and the emergence of the new regime in Nicaragua, there was a brief time when this body actually looked at long-term policy questions. For instance, throughout the fall of 1979 and the winter of 1980, a number of us stood here on the floor of the Senate and discussed another emergency supplemental appropriation. That time, it involved economic assistance for Nicaragua to help that tragic country get back on its feet after years of looting by the Somoza regime and fighting in the streets.

The debate which we undertook at that time was both wide ranging and forward looking. These days, by contrast, we discuss certification, not policy. We have, in other words, acted more as auditors, seeing if the forms are filled out correctly and if the columns add up to the right numbers, and less as legislators, sharing in the task of enunciating a long-term policy. To be blunt, we have abrogated our proper role for the sake of a periodic box-checking exercise by the President.

By now, Mr. President, the record should be clear. Certification, however laudable its origins, is a flawed device. Why? For several reasons.

First, it does not help to bring about what it seeks: the measure of conditionality which most of us agree is necessary to make our policies in Central America workable and which is not there. What is conditionality? Simply the assurance that funding will continue only to the extent that our policy is successful—a statement that we will feed success, not failure.

There is more to this than simply the desire to fund nice things we like. Conditionality is of necessity bound up in the desire of the United States to insure that its dollars are spent to promote reform, not repression. But that desire follows from the hardheaded recognition that our long-term hopes for stemming a major blow to U.S. interests in Central America will come to naught unless we encourage countries like El Salvador to foster reform in order to forestall revolution.

If, for instance, the Government of El Salvador does not move to break the back of the death squads, it simply cannot hope for the allegiance of the people which is so vital to denying the initiative to Marxist revolutionaries. Revolutions do not occur in a vacuum; they spring from grievances. They can be stolen by brutal people, as we have seen in the Soviet Union and elsewhere. In El Salvador, there is that risk. And the best way to prevent that risk from becoming reality is to promote policies which end the sources of revolution. We must act, therefore, to condition our assistance on acceptable progress toward the adoption of policies which promote our policy goals. To do otherwise is more than just a waste of time; it is a recipe for disaster.

Conditionality, in other words, is crucial to the success of our policy, a point recognized both by the Kissinger Commission and by the Vice President in his courageous remarks in San Salvador. But how serious have we really been about this in the past?

I fear that we in Congress cannot and do not take the issues involved as seriously as we should so long as we rely on certification rather than on a genuine debate. Certification is at best an index, not a policy. And in the case of Congress, it can serve as a copout, not a condition. Certification is nothing more or less than an invitation to

the President to send over a pro forma good news report while the money flows on and on, unimpeded by conditionality or by congressional judgment.

Earlier today, the junior Senator from Connecticut, who I credit, at least in part, for this certification process that was first thrust upon us, made some very astute observations about the role we should play, but which we play so seldom. And I agree with all of those comments. That is why I object to certification.

Certification is the worst of all worlds, for it invites critics of policy to snipe, knowing that they will not have to take responsibility for any real action, and it puts supporters of our policy in the untenable position of having to accept as fact a matter of judgment which is narrow in scope and which is confined only to the latest items to make the reporting requirements list. Perhaps worst of all, the certification process arouses partisanship in our foreign policy, rather than promoting the kind of compact between the executive and Congress which is crucial to sound policy.

So the second reason why I feel certification is a flawed device is that it lets us have it both ways. It permits those of us in Congress to escape the burden of commitment, the responsibility of action, the necessity to choose. It lets us talk, but it permits us to avoid the consequences of that talk.

For instance, some might suggest that we should keep the certification provisions in this bill because they signal our commitment to a policy which is based in some measure on conditionality. But is this really the case? Does this not really mean that the provisions will let us vote for continued aid while criticizing the policy? And is that not just a shorthand device for abrogating our own responsibilities?

If you doubt this, ask whether there are critics of our policy who will vote for this package, hiding behind the cloak of the certification language. If so, then those critics want it both ways. For they can hardly be surprised when the next certification report comes over from the executive announcing that the President has determined that the Government of El Salvador has made satisfactory progress. Will the existing certification provisions alter the reality which should be the baseline for our policy? Or will they just succeed in shifting the focus of our debate from conditions in El Salvador—where the focus belongs—to conditions in our own executive branch? The issue in Central America, Mr. President, is U.S. policy, and we in this body bear a measure of responsibility for that policy. It is not the President's policy alone, and we should not pretend it is simply for the sake of convenience.

So what can we really say about certification? It does not give Congress any capacity for independent analysis and judgment. It does not strengthen the President's hand in dealing with recipient nations, for it is not backed up by any apparent congressional intent or any willingness to adjust funding levels to conditions. It is simply a money machine, rationalized by rhetoric.

In short, Mr. President, while I strongly support the concept of conditionality in our aid program—a concept which was endorsed by the Kissinger Commission itself—I believe that it is time to face up to the fact that certification is not the way to proceed with it.

What I propose, therefore, is putting the question of determination and judgment where it properly belongs—in the hands of individual Members of Congress who must ultimately decide whether to vote for or against aid.

I first raised this idea some weeks ago in a letter to our colleague, Senator PERCY, the chairman of the Foreign Relations Committee. I was concerned that when it came time to take up the question of a policy which is prospective, mature, and regional in scope, we would resort once again to the flawed device of certification. I, therefore, suggested that we append to the Jackson plan a provision to condition our aid on a joint resolution of approval, following debate on a comprehensive report to be written by our experts on the authorizing committees. At this point, Mr. President, I ask unanimous consent that a copy of my letter to Senator PERCY be put in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,

Washington, D.C., February 9, 1984.

HON. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations,
Washington, D.C.

DEAF CHUCK: As you know, the Congress will soon confront the issue of Presidential certification of human rights in El Salvador and other countries. The debate over the Kissinger Commission report, the continuing controversy over President Reagan's pocket veto of certification language, and the action by the House yesterday virtually ensure that this will be a highly contentious issue.

In my view, a great deal of the controversy is both unnecessary and counter-productive, for it detracts attention from the main issue: conditionality attached to assistance programs. There is a widely-shared consensus that aid should be conditioned, a point made with equal force by the Kissinger Commission and by the Administration. Unfortunately, the ongoing furor over certification has missed this point, for it has confused an instrument with a goal.

I'd like to suggest a possible solution: Congressional rather than Presidential determinations, under the lead of the Committee on Foreign Relations.

Presidential certification has a number of drawbacks, as both its proponents and its opponents have come to recognize. Perhaps the chief flaw of the process is that it virtu-

ally eliminates Congressional judgment from the decision about whether to appropriate assistance. Once an instrument of certification is filed, money is virtually guaranteed. There is little Congressional analysis of the facts presented in the certification document, and even less independent Congressional fact-finding.

Congress has broad investigatory powers, and the Committee has ample staff support from trained experts who can travel to Central America and arrive at their own conclusions. Regular reports from Congressional committees to the membership would go a long way toward restoring the proper role we play in foreign policy—a role defined by broad oversight and goal-setting.

Regular Congressional reports would have at least two other advantages over certification. First, the contents of the report would not need to be determined through explicit specification on the floor of the Senate. In other words, the report could be constructed on the basis of regular consultation with interested members and could address itself to broader questions of context.

Second, the report could to some extent minimize the perils of partisanship. If senators and representatives are to debate the significance of a set of findings, rather than simply the findings themselves, they must be free to do so with the least possible taint of partisanship. Just as it would be difficult for a Democrat to criticize a Presidential report without being accused of partisanship, so too it would be difficult for a Republican to support a finding without the same problem. This is even more the case in an election year. A report originating from a bipartisan Congressional committee can overcome that problem.

Perhaps most important, however, regular Congressional reports—perhaps on a semi-annual basis—would provide the basis for a genuine debate, something which we have thus far engaged in too seldom. It would be my hope that such reports would provide the basis for regular votes on aid levels. Thus far, we have relied on such hasty vehicles as continuing resolutions to move appropriations, with little opportunity for reflection. If appropriations were linked to Congressionally generated findings about the status of human rights in recipient countries, we could begin to play the role which we have thus far abrogated.

I hope that you will let me know your views, for I would like to share this idea with others if you feel it worthwhile, and to begin working on appropriate legislation.

Sincerely,

DAVE DURENBERGER,
U.S. Senator.

Mr. DURENBERGER. Since then, Senators INCUYE and KASSEBAUM—who had expressed similar concerns—have joined me in drafting a concurrent resolution to put these ideas into effect. Senator HEINZ has joined us as a co-sponsor. And, just 2 days ago, I received a letter from Senator MATHIAS outlining a comparable proposal. So I am confident that, over the long term, we will begin both to foster the durable policy that is needed and to play our proper role in monitoring that policy.

But that is the long term. What do we do until the Jackson plan is actually written into law? Do we continue to kid ourselves that certification is the way to proceed? I hope not.

As Senators know, I was prepared to offer an amendment today. After conversations with members of the For-

ign Relations Committee, I have learned that the committee is addressing the concerns I and others have raised, so I will not proceed. But I want to outline the procedure under which I feel we should operate.

First, we should seek a period report—not determinations about whether progress is satisfactory, but simply a statement about actual conditions. Second, we should ourselves debate a joint resolution of approval for further funding requests. A debate in which members can decide for themselves whether progress is satisfactory.

I want to clarify and emphasize several points about this concept. First, it would not impede the existing funding request of \$61.7 million. Frankly, the existing bill which states that funding may not be obligated or expended until a Presidential report is filed does not impede it either, no matter what the words in the bill may say. It is going to get an automatic checkoff. Only the conditions are different from the last time it went through here. But it has got six or seven boxes that deal with all the mandatory subjects. And I credit the Senator from Wisconsin for putting the boxes together because it was about the only way this bill was going to get to the floor.

But I am satisfied that the appropriation that is before us today is justified. I am satisfied in particular by the insight and the leadership that our colleague from Hawaii has displayed in this whole issue. I am disappointed with the role that our administration, and those in responsible positions in my party, have played in this whole issue. But I think the Senator from Hawaii has shown us not only what some might characterize as a difficult way out of an impossible situation, but he has given to the President and he has given to this Congress an opportunity to once and for all provide a prospective resolution to the whole problem of conditioning aid in Central America today.

I am satisfied that the appropriation is justified. But to those Senators who might feel otherwise, let me say that the existing camouflage of a Presidential certification will not alter the fact that \$61.7 million will go to El Salvador. So, to those who say that a prospective resolution would not impede existing funding, only future funding, I say this represents no change in the reality that funding is going to go to El Salvador.

Second, I do not purport to be the authority on just what conditions should be promoted in El Salvador or elsewhere. So the joint resolution called for would not hinge on a simple yes-no answer about whether a given set of goals had been achieved. Instead, it would hinge on a comprehensive report covering every relevant factor, and would put the final question of judgment where it belongs—on each of us here in the Congress. There

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would be no trigger provision, no magic threshold which must be met to continue funding. Those triggers and thresholds are matters of individual judgments, and they should be determined by each of us acting as members in debate. They should not be determined a priori, by authors of a bill or by the President. Only we in this body can determine whether progress is satisfactory.

Third, Mr. President, this approach would not be an unwarranted or new intrusion in the day to day world of diplomacy and foreign policy. It is often said—correctly—that we cannot afford to have 535 secretaries of state. I agree. But equally, we cannot afford to have our shared powers in foreign policy virtually abandoned because we ourselves are uncomfortable with the necessity to weigh trade-offs, understand nuances, and grapple with the complexity of a challenging situation.

Our past refusal to treat Central America with at least the seriousness that we feel is merited in the Middle East or Europe is causing us to persist in the trap of seeking black and white analyses, to erect checkoff boxes on forms, and to stifle the kind of comprehensive discussion which is vital to a long-term and mature policy. Most of us are more than willing to oversee and act upon a wide variety of issues elsewhere in the world. Just a few days ago, more than 50 of us wrote to the President to comment upon the proposed sale of Stinger missiles to Jordan. Virtually every day, we are called upon to praise or chastise a given policy. It seems that only in this crucial region of the world do we mask our unwillingness to act behind the facade of certification.

Finally, Mr. President—and this follows from the point concerning the constitutional role of Congress in foreign policy—we have an obligation today to the people of America to play a role in the permanent resolution of our relations with Central America.

I am convinced, after watching this President for 3½ years since his election, that he has not yet developed a policy for Central America. Instead, he has four or five policies for that region, and these policies are shaped and reshaped by four or five people claiming expertise and benefiting from access to the oval office.

I will not take words out of the mouth of the Senator from Connecticut because he expressed it so well earlier today. It would be preferable for us to take on issues of policy on the floor rather than debating under the pressures of a lot of weekend visits to El Salvador whether or not \$61.7 million is an appropriate policy in El Salvador.

But as I said, I am convinced that the President has not developed a unified and coherent policy for Central America. Instead, he has four or five policies for that region.

I am convinced that the prevalent bent of these policies is ideological,

that they are too often based on a belief in the supremacy of political considerations, and that they too often suffer from the premise that might makes right.

It was years ago, Mr. President, that Alexis de Tocqueville wrote: "America is great because she is good. If she ever ceases to be good, she shall cease to be great." Those sentiments were echoed in the Kissinger Commission report, as fine a blueprint for action in Central America as any we have seen in recent years.

We need to move toward a prospective policy for the Americas, Mr. President, one which is based on a firm recognition of our own past as well as the present reality of the rest of the hemisphere. Our own heritage, as we have often forgotten, is one of change. We invented revolution. It was our Nation which first demonstrated to the world that people would eventually take matters into their own hands unless government was responsive to their needs.

So with all the enthusiasm over the most recent elections in El Salvador, elections which we all heartily welcome, I beg by colleagues not to confuse the evident need of 4½ million people for dignity and simple justice with the belief that, all of a sudden just because we have had an election, just because we have appropriated \$61 million, everything is going to be better. Let us not confuse a milestone with change. Let us not capitalize on the emotional starvation of people who have known only misery and violence but have seldom seen a policy except one which happens to be convenient.

Only when we in this country begin to treat Central America with the seriousness it deserves—and only when we recognize that we ourselves have contributed to conditions through our ignorance and apathy as much as through our action—will we have a hope for undertaking the kind of bold and humane policy outlined by the Kissinger Commission. And we will get nowhere so long as we in this body continue to resort to the convenient camouflage of certification. We must begin to draw our own judgments and live with our own consciences. Otherwise, we will contribute to still another failed policy.

Mr. President, the approach I have outlined needs expansion, and I am gratified that the committee is considering it. The approach should mirror our policy: it should be regional in scope and comprehensive. The approach is not designed to block policy, or to impede future funding, or current funding for that matter. The idea, instead, is to foster the means by which Congress can begin to do what it claims to want to do—study, assess, and pass upon the wisdom of our policy. Without that kind of commitment, we will not have a policy at all.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, I wish to commend and recognize the work of my dear friend from Minnesota for his leadership in trying to bring about a resolution of the Central American problem and, more specifically, the matter of conditionality. It has been my privilege to work with him and his colleagues in drafting what we consider will be not only appropriate but meaningful language. I am certain that will make some change in how we deal with our friends to our south. Once again, I wish to commend my colleague for his statement. It was courageous. It was correct, and it is worthy of consideration of this body. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I would like to respond very briefly to the statement of the Senator from Minnesota. First of all, I thank him for the discussion and also for deciding not to offer his amendment at this time. As the Senator stated, we do have conditionality language in this emergency appropriation bill. The conditionality language which we have adopted is language which tracks directly from the Kissinger Commission. I, too, am disappointed that the administration has not been willing to embrace and work with the conditionality language of the Kissinger Commission. Also the administration has not been forthcoming in terms of working with the Congress and with other interested people outside of Congress as we wrestle with this overall group of problems.

We are going to have an authorization bill which the Senator from Minnesota correctly said is being debated right now in committee. In addition, we will have the 1984 regular supplemental and the 1985 appropriations bills. I am hopeful and I am optimistic that in the appropriations process and the authorization process we are going to be faced with a number of the questions that the Senator from Minnesota has dealt with today. I also believe that it is likely that a number of suggestions and elements of his amendment may very well be included in the language of either the authorization or the appropriations bills.

I look forward to working with the Senator from Minnesota, along with the Senator from Kansas and the Senator from Hawaii, as we wrestle our way through this very complex and difficult area. I thank and congratulate the Senator from Minnesota on his statement.

Mr. President, we have been here since 9:30 this morning. We spent a couple of hours on this issue yesterday afternoon. I see that the Senator from Connecticut might want to make a statement. I simply want to say to the Senate that the Senator from Hawaii and the Senator from Wisconsin are

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the ends; and we should not use our foreign aid to harass or overthrow the existing Government in Nicaragua.

Mr. GRASSLEY. Mr. President, I have repeatedly spoken in the past of my opposition to a policy of targeted, active subversion of the Government of Nicaragua by the United States. Additionally, I have spoken clearly of my own political critique of that regime. Lastly, I have made clear that the evidence for Nicaragua's active policy of arms exports to allied military units in neighboring nations is clear and must be stopped.

If the present amendment were more exactly targeted toward assuring that active overthrow of Nicaragua by the United States would not be carried out, this measure might receive greater support. Unfortunately, as is the case with other amendments to this bill, the proponents of the amendment have created a dilemma for those in this Senate who are concerned that our attacks on Nicaragua as subversive of its neighbors can easily be turned back on the United States.

However, the evidence of Nicaraguan action in daily, weekly, and monthly covert arms smuggling into neighboring countries is overwhelmingly clear and suggests a strategy of Nicaraguan involvement in military action outside its borders—a condition I find deeply disturbing and threatening to those weakened nations which are attempting to develop democratic institutions. Thus, I must oppose this amendment because it would halt even the efforts to interdict weapons being transferred from Nicaragua to other countries for the purpose of supporting subversion of our close allies.

Mr. STEVENS. Mr. President, I yield such time as the Senator from Arizona may desire.

Mr. GOLDWATER. Mr. President, I have listened with a great deal of interest to the debate on this amendment, particularly to the remarks of my friend from Massachusetts (Mr. KENNEDY). During the course of his discussion, he made a statement that this program is illegal.

Mr. President, there has been a good deal of discussion as to whether the covert paramilitary operation directed against the Sandinista regime in Nicaragua is a legal activity. In fact, many Members of the House of Representatives have stated publicly that this covert action program is illegal—that it violates the so-called Boland amendment, or it violates the U.N. Charter or the charter of the Organization of American States. Mr. President, I do not believe this is quite right.

I do not think that anyone questions the President's legal authority to conduct covert action. Under the provisions of 22 United States Code 2422, Presidential findings constitute both the legal authority and the policy framework for covert action programs. These programs are routinely briefed to the House and Senate Intelligence

Committees which, in turn, report authorization legislation to fund them. Occasionally, covert action proposals are not authorized by the Congress, and funds are withheld accordingly.

Let me summarize several points on the issue of the legality of this covert action as follows:

Every State Mr. President, has the right under international law to defend itself against attempts by another State to assist insurgent groups in its territory, and furthermore, has the right to seek and receive support from friendly countries in doing so.

The right of individual and collective self-defense is specifically recognized by the U.N. Charter and the Rio Treaty. Each American State has a duty under the Rio Treaty and the OAS Charter to assist other American States in defending themselves against aggression.

This principle of international law clearly applies to what is happening in Central America. The governments of Cuba and Nicaragua have been engaging in a serious and sustained effort to overthrow the Government of El Salvador through the direction, support and infiltration of arms to insurgents in that country. Much of this infiltration has violated the territory and sovereignty of Honduras as well. All of this clearly amounts to an armed attack under international law.

El Salvador and Honduras have a clear right to defend themselves against this armed attack, and the United States has a clear right to assist them in collective self-defense.

Mr. President, I believe that most Members of the Senate will be satisfied that the intelligence community is living up to its obligations under the law. The Secretary of State and our Ambassador to the United Nations have said, "The U.S. Government is not breaking the law." I concur with this point of view in the context of the covert action program in Nicaragua.

Mr. KENNEDY. Will the Senator yield on the point of legality?

I have put into the record a list of the law professors from many of our most distinguished law schools all over this country who believe that this is a violation of international law. I wonder whether the Senator from Arizona had a similar brief from those lawyers who sustain the position of the Senator from Arizona that this is a legal action? I wonder if those who support the covert action have been able to fashion or shape any body of legal opinion within this country that would state, on the basis of law, that this is a justifiable action, leaving aside the question of policy?

Mr. GOLDWATER. I say to my friend from Massachusetts, we had the opinions of the State Department, of the intelligence family, and of members of our staff and others who have studied it. We feel, after long discussion, that we are operating within the

Now, I have no doubt that we can find people who agree with the Senator from Massachusetts; we can find lawyers on all sides of the fence.

Mr. KENNEDY. The reason I ask the question is that I think once—

Mr. GOLDWATER. If the Senator will wait a minute, I will be glad to put in the RECORD in the next day or two a list of the legal authorities that we have on our side. I think that will answer the Senator.

Mr. KENNEDY. I would appreciate that, because the references the Senator has cited represent those who have supported the administration's policy. There we outside independent legal experts who feel it does violate international law, including some distinguished lawyers from the Senator's own State, for instance, Andrew Silverman, professor of law, University of Arizona College of Law. And there a number of others who I would think could be considered to be virtually independent of a policy position on this and yet have questioned the legality. I know we will debate the policy consideration, but on the question of legality I was interested in what independent authority the Senator has. I will wait to see what he provides.

Mr. GOLDWATER. I will be very glad, Mr. President, to supply a list of authorities that participated in our formulation of this position. We discussed this and debated it in the Intelligence Committee at some length. In fact, we have been on this problem for a little over 3 years.

Now, Mr. President, on another subject, a statement was made that the purpose is to overthrow the Sandinista Government.

It seems to me that the crux of this debate involves whether or not the U.S. Government is trying to overthrow the Marxist military regime in Managua, Nicaragua. Most of my Colleagues will remember that when the Sandinista forces took control in Nicaragua in 1979, they enjoyed the support of almost all political groups in their country. They had a force of over 15,000 well-armed and trained guerrillas. Both the Carter administration and Castro's Cuba supported the ouster of President Somoza, who eventually fled with his palace guard to an estate in Florida. Later, he was murdered by a Sandinista death squad in Paraguay.

Since 1979, the Marxist Sandinista Government in Nicaragua has developed the largest military force in Central America. They have improved a dozen of their existing bases, and have constructed almost 40 new military bases. They have built up a regular military force of over 20,000 troops, with reserves of over 20,000 and a militia of over 30,000. With this force, the Nicaraguans can field over 90 infantry battalions of varied combat efficiency.

Obviously, Cuba has played an important role in the success of Nicaragua's militarization program. Their

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military forces are patterned after Cuba's. Thousands of Cubans serve in a variety of roles in Nicaragua. Substantial amounts of Soviet military supplies flow into Nicaragua every day by way of Cuba and the Soviet Union.

Now, Mr. President, do any of my colleagues seriously believe that this Marxist military machine is going to be brought to its knees by several thousand Nicaraguan and Mosquito Indian freedomfighters? I believe that the Soviet-supported Sandinista Government is fully capable of defending itself from anti-Sandinista insurgents operating out of the territory of any of its neighbors. Furthermore, Nicaragua is capable of launching strikes against El Salvador, Honduras, and Costa Rica. After all, El Salvador is in the throes of a Nicaraguan-supported insurgency, Costa Rica maintains no standing army at all, and Honduras is left pretty much alone against the largest military force in Central America.

Mr. President, I will not labor the point. Winston Churchill once said, "you cannot argue against arithmetic." The arithmetic in Central America simply does not support the thesis that a relatively small band of anti-Sandinistas is going to overthrow the Sandinista regime in Nicaragua. Unfortunately, Mr. President, the odds all seem to favor Nicaragua's Marxist military machine doing all the overthrowing, now and into the future. So let us not be deceived into worrying about whether there is any purpose or intention to overthrow the Marxist government in Nicaragua when there is no apparent capability to do so.

COMMITTEE ACTION ON CENTRAL AMERICA

Mr. President, because this debate will eventually get into committee action, I want to summarize briefly the committee actions we have taken on this program.

Ever since President Carter signed the first Presidential finding on Nicaragua, the Senate Select Committee on Intelligence has engaged in effective oversight of covert action directed against the Sandinista regime of Nicaragua. Although all Members of this body have full access to all documents pertaining to this oversight under the provisions of Senate Resolution 400, it may be useful to review some of our oversight activities on this program over the past year.

On May 6, 1983, the Intelligence Committee voted 13 to 2 to authorize and fund a covert paramilitary action program directed against the Sandinista regime subject to certain conditions stipulated by the committee. The committee placed all funds requested by the President for fiscal year 1984 into the reserve for contingencies for the purpose of supporting a redirected, redefined covert paramilitary action program based upon formulation of a new Presidential finding.

I inform my colleagues that later, either today or tomorrow, the majority leader will read a letter on that

subject from the President of the United States.

Some of my colleagues may recall that at the time we asked the President to come up with a new program on the whole of Central America before September 30, 1983.

The committee subsequently met on September 20, 1983, to consider the new Presidential finding on Nicaragua. Witnesses at the hearing included Secretary of State Shultz, the Director of Central Intelligence, Casey, and the Assistant Chairman of the Joint Chiefs of Staff. The committee met again on September 21; and, after careful consideration, the committee agreed overwhelmingly to approve the covert paramilitary action program for Nicaragua. Our vote was bipartisan in nature with only two dissenting votes cast.

On November 3, 1983, the Senate passed unanimously the Intelligence Authorization Act for fiscal year 1984. Among other things, this legislation authorized funds for the covert paramilitary action program in Nicaragua. Subsequently, there was a joint House/Senate conference on this legislation. House and Senate conferees agreed that \$24 million would be made available in fiscal year 1984 to fund the covert paramilitary action program in Nicaragua. This figure of \$24 million was a cap, and it was agreed that any further funding for this program would have to come in the form of a supplemental request approved by both Houses of Congress.

On March 8, 1984, Secretary of State Shultz and Director Casey appeared before the Senate Select Committee on Intelligence to discuss this program. Unfortunately, the agenda of that meeting changed dramatically when we learned that the administration was attempting what appeared to be an end run of the authorizing committees. Secretary of State Shultz testified that what had happened was a mistake and he apologized to us for it. I, for one, believe him and do not blame him for what happened.

On March 13, 1984, the full committee met again to consider this matter. At that session, we voted unanimously to raise the ceiling of moneys authorized for this program by \$21 million. The day following our meeting, the Senate Appropriations Committee also agreed to raise this ceiling by \$21 million. That vote was unanimous as well, I am told.

Mr. President, my point in recounting this background is to emphasize the importance which the committee places on carefully evaluating this program and its role in the President's foreign policy for Central America. Our committee has worked long and hard on this issue. At the same time, and with only a few exceptions, I believe the administration has made a good faith effort to accommodate our interests.

It is my sincere hope that this spirit of bipartisanship can continue as we

act on the urgent supplemental appropriations bill here today. I also hope this spirit of bipartisanship and cooperation will continue as we move into our conference with the House on this important issue.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from California?

Mr. KENNEDY. I yield such time as the Senator needs.

AGAINST TERRORISM IN CENTRAL AMERICA

Mr. CRANSTON. Mr. President, we have never known modern war upon our continent in the United States. But is coming closer and closer.

Soviet submarines carrying nuclear missiles are moving closer to our shores, and we are moving missiles in Europe closer to the U.S.S.R.

We are involved—directly and indirectly—in hostilities that lie down the Pan American Highway in Central America. You could get in your car and drive to the war raging there. California is about as close to Nicaragua as it is to Washington, D.C.

Americans have already died in hostilities in Grenada, El Salvador, Honduras, and on the border of Nicaragua. We are getting in deeper and deeper—and the worst of our actions are those aimed at Nicaragua.

Ronald Reagan has justified administration policy initiatives in Lebanon, Grenada, and elsewhere as key to American efforts to combat international terrorism. Secretary Shultz denounced state terrorism, but the Reagan administration is supporting international terrorism in Nicaragua.

The Reagan administration is bankrolling a mixed group of thugs, mercenaries, freedom fighters, former Somocistas, and disaffected Sandinistas who are trying to terrorize the Nicaraguan people into taking up arms against the Sandinista regime. American taxpayers' dollars are helping to perform such missions as the bombing of commercial oil facilities, the bombing of the civilian airport in the Nicaraguan capital, Managua, and the mining of Nicaraguan harbors on both the Atlantic and Pacific seaboard.

We are involved in activities directed at overthrowing the Government of Nicaragua, coming at Nicaragua from the east, the west, the north, and the south: from the east, the mining of harbors in the Atlantic; from the west, the mining of harbors in the Pacific; from the north, from Honduras; from the south, from Costa Rica.

Through its funding of counterrevolutionaries, the U.S. Government is systematically intervening in the internal affairs of Nicaragua and is clearly violating the charter of the Organization of American States, which the United States led the way in drafting.

The Reagan administration has made clumsy efforts to keep its clumsy covert war a secret in order to stifle

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of the majority leader, I would say that that would resolve my own particular concerns. I cannot speak for others.

With understanding, I wonder if it would be appropriate for me to inquire how the majority leader would expect to vote on this particular amendment?

Mr. BAKER. After the agreement is entered into, I will vote for the amendment.

Mr. KENNEDY. I would appreciate an early decision. I thank the majority leader and the minority leader for their cooperation.

Mr. BYRD. Mr. President, I personally have no objection to this agreement. The chief author of the amendment has indicated that the agreement is all right with him. I have no problem with it. I would, however, have to run our hotline on the request before I could finally agree to it.

The majority leader has indicated that his side had a meeting and has indicated the outcome of that meeting. I have not had a chance to run this proposal by any Members on our side of the aisle. I owe them that obligation. I would suggest that the majority leader put in a quorum call and give us, say, 5 minutes to run the hotline. Once we have done that, I will be back to him and report to him.

Mr. BAKER. I will be happy to do that.

Mr. HELMS. Mr. President, reserving the right to object and I shall not object, just to be sure that there is nothing misunderstood, it is that there would be a vote on the first half of the Kennedy amendment and that the second half will be withdrawn.

Mr. BAKER. That is correct.

Mr. HELMS. And that there will be no further amendments in order relating to Central America on this bill.

Mr. BAKER. That is correct.

Mr. HELMS. And the Senator believes that in a short while, there will be a vote?

Mr. BAKER. Yes, Mr. President, I do believe that.

Mr. HELMS. Mr. President, we should begin with a general caveat that it does not advance the U.S. national interest at any time to talk about specific covert actions, even if they are successful. There are those who may have the opinion that covert actions in and of themselves are unwise. I do not take that position. I feel that the President of the United States has the constitutional authority to conduct our foreign policy. The use of covert actions is a classic tool of foreign policy. When we elect a President, we elect him to use his judgment in the employment of that tool.

We should also begin with the general assumption that the United States should not, as a general rule, accept the jurisdiction of the World Court in matters of our national security. The sovereignty of the United States should remain paramount in our considerations.

Mr. President, if we surrender jurisdiction to the World Court in something that the President judges will impact on our national security, then we would be surrendering our sovereignty. It is all very nice to speak of the "rule of law"; but the rule of law is an ideal that is seldom met in a world of conflicting cultures, traditions, and ideologies. We must not put our own paramount national interests in jeopardy by submitting to the judgment of an international court. In the long run, the most fundamental right of a nation is the right to protect its security.

All this having been said, we should also take a look at the substance of the controversy. If the covert actions which the press says have been taken have actually been taken, then I could easily understand the considerations which might have led the President to make the judgment to implement them. The country of Nicaragua has become a vast storehouse for arms threatening the national security of the region, including our own security. It has become the Libya of the Caribbean, a forward base for the logistics of supplying revolutionary movements in the Western Hemisphere.

The prime providers of those arms are the Soviet Union and Cuba. Those arms are a present danger to Costa Rica and Honduras. They are the proximate danger to the free elections in El Salvador. The Subcommittee on Western Hemisphere Affairs recently heard testimony from Dr. Fred Ikle, the Under Secretary of Defense for Policy. Dr. Ikle said:

A year ago, I reported to this Committee that in 1981 the Soviets had delivered 63,000 tons of arms to Cuba, the highest yearly total since 1962. Today I must report to you that the Soviet deliveries have increased further, to 68,000 tons in 1982—about one billion dollars worth of military assistance.

Mr. President, those deliveries to Cuba indicate the growing presence of Soviet military arms in the region. We also know that those arms are being shipped from Cuba to Nicaragua, as well as directly from other Soviet bloc ports on Soviet vessels. Nicaragua has admitted to having increased the number of military and security forces to 138,000. This includes 39 percent of all the males over 18.

According to a Sandinista official, the first training class of 30 pilots—part of about 70 Nicaraguans training in Bulgaria—was due to complete its training in December 1983. Meanwhile, improvements have continued on existing landing strips in Nicaragua to allow them to accommodate modern jet aircraft. There are presently 36 new military bases and garrisons in Nicaragua now under construction or completed.

Approximately 50 Soviet tanks have been introduced into Nicaragua, enough to form a second battalion. Nicaragua has received about 1,000 East German trucks, 100 anti-aircraft guns, and three brigades of Soviet ar-

tillery that can achieve ranges over 27 kilometers. Nicaragua has also obtained additional assault helicopters and transport aircraft to improve their mobility.

Mr. President, this and similar equipment is coming directly from Soviet bloc ports to Nicaraguan ports. It seems to me to be an entirely prudent and responsible action to take appropriate steps to stop such shipments. Such considerations could well have led to a decision to mine the ports receiving the military equipment.

Those who object to such policies should be prepared to take responsibility for the alternative—the collapse of neighboring countries into Marxist-Leninist hands. Nicaraguan freedom fighters have irresistible reasons for doing everything in their power to see that their country does not fall irreversibly into the hands of a totalitarian power which considers Castro, Stalin, Lenin, and Marx as a suitable successor to the imperfect political tradition and the ardently Christian culture of Nicaragua.

We owe at least the same to our allies in Guatemala, Honduras, and El Salvador. Whoever is dropping mines into the waters around Nicaraguan ports, wherever they are from, are working for the best interests of the Nicaraguan people, and of all the people of the region. Whatever role, if any, may have been played by U.S. officials should not blind us to the fundamental truth. What we should do is applaud.

We should not and must not do anything which will concede anything of our national sovereignty to any international body, or to any group of journalists, or to "international opinion," or to the "international community," whatever that is. A policy which appeals to the rule of law to destroy the basis for a rule of law—that is to say, the fundamental freedoms of people everywhere—can have no part in our thinking. We cannot stand idly by and wait until the military buildup becomes irresistible.

Mr. MOYNIHAN. Mr. President, may I simply make a brief statement for the information of the Senate with respect to the second section of the amendment of the Senator from Massachusetts? It holds that "The United States shall immediately withdraw the modification submitted on April 6, 1984, to the jurisdiction of the International Court of Justice over the United States with respect to disputes with any Central American state or arising out of or related to events in Central America."

May I inform the Senate, as I am sure many learned Members know, that the United States does not have the right under our original agreement with the Court to make the proposal which the Secretary of State did make on Friday to the Secretary General of the United Nations. The ratifi-

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cation which the Senate agreed to, stated by President Truman, indicated the four areas in which we would submit to jurisdiction, then concluded:

Provided further, That this declaration shall remain in force for a period of five years and thereafter until the expiration of six months after notice may be given to terminate this declaration.

Mr. President, by our own previous agreement, we do not have the right simply to declare that we will no longer accept that jurisdiction. As a matter of fact, in the report of the Committee on Foreign Relations presented to this body on August 2, 1946, it was specifically noted:

The provision for 6 months' notice of termination after the 5-year period has the effect of a renunciation of any intention to withdraw our obligation in the face of a threatened legal proceeding.

Mr. President, how it could come to pass that the Department of State would not know what were the agreements which the United States has made, what the commitments are that it has made, and what is the legislative history explicit of those agreements is a matter of wonder to this Senator in all events.

Mr. President, I ask unanimous consent that I may have printed in the RECORD at this point the declaration of the United States accepting the compulsory jurisdiction of the court with respect to other nations who did the same with respect to certain specific subjects, and also the report of the Committee on Foreign Relations which provides the specific legislative history behind the provision that requires 6 months' notice before any such exclusion can take place.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECLARATION

I, Harry S. Truman, President of the United States of America, declare on behalf of the United States of America, under Article 36, paragraph 2, of the Statute of the International Court of Justice, and in accordance with the Resolution of 2 August 1946 of the Senate of the United States of America (two-thirds of the Senators present concurring therein), that the United States of America recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes hereafter arising concerning—

(a) the interpretation of a treaty;

(b) any question of international law;

(c) the existence of any fact which, if established, would constitute a breach of an international obligation;

(d) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that this declaration shall not apply to—

(a) disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or

(b) disputes with regard to matters which are essentially within the domestic jurisdiction of the United States of America as determined by the United States of America; or

(c) disputes arising under a multilateral treaty, unless (1) all parties to the treaty affected by the decision are also parties to the case before the Court, or (2) the United States of America specially agrees to jurisdiction; and

Provided further, that this declaration shall remain in force for a period of five years and thereafter until the expiration of six months after notice may be given to terminate this declaration.

Done at Washington this fourteenth day of August 1946.

(Signed) HARRY S. TRUMAN.

REPORT OF COMMITTEE ON FOREIGN RELATIONS

The Committee on Foreign Relations, to whom was referred the resolution (S. Res. 196) providing that the Senate advise and consent to the deposit by the President of the United States with the Secretary General of the United Nations of a declaration under paragraph 2 of article 36 of the Statute of the International Court of Justice recognizing as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in certain categories of legal disputes hereafter arising, hereby report the same to the Senate, with an amendment with the recommendation that the resolution do pass as amended.

A. TEXT OF RESOLUTION

Following is the text of the resolution, as amended by the committee:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the deposit by the President of the United States with the Secretary General of the United Nations of a declaration under paragraph 2 of article 36 of the Statute of the International Court of Justice recognizing as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes hereafter arising concerning—

"a. the interpretation of a treaty;

"b. any question of international law;

"c. the existence of any fact which, if established, would constitute a breach of an international obligation;

"d. the nature or extent of the reparation to be made for the breach of an international obligation.

Provided, That such declaration should not apply to—

"a. disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or

"b. disputes with regard to matters which are essentially within the domestic jurisdiction of the United States.

provided further, That such declaration should remain in force for a period of 5 years and thereafter until the expiration of 6 months after notice may be given to terminate the declaration."

B. HEARINGS OF THE SUBCOMMITTEE

On November 28, 1945, Mr. MORSE submitted Senate Resolution 196 for himself, Mr. TAFT, Mr. GREEN, Mr. FULBRIGHT, Mr. SMITH, Mr. FERGUSON, Mr. AIKEN, Mr. BALL, Mr. CORDON, Mr. WALEY, Mr. TOBEY, Mr. MAGNUSON, Mr. JOHNSTON of South Carolina, Mr. MYERS, and Mr. McMAHON. The resolution was referred to the Committee on Foreign Relations. On June 12, 1946, Chairman CONNALLY appointed a subcommittee consisting of Senator THOMAS (Utah) as chairman, Senator HATCH and Senator AUSTIN to hear witnesses on the resolution

and to recommend any amendments that might seem appropriate.

The subcommittee held hearings on July 11, 12, and 15, with Senator Morse, Dean Acheson (Acting Secretary of State), and Charles Fahy (legal adviser of the Department of State) appearing and a number of other witnesses testifying on behalf of important private organizations. Outstanding jurists and international lawyers also submitted statements for the record. Witnesses appeared or statements were submitted from the following organizations:

American Bar Association.
American Society of International Law.
American Association of University Women.
General Federation of Women's Clubs.
Young Women's Christian Association.
Americans United for World Government.
Friends Committee on National Legislation.
National League of Women Voters.
Federal Bar Association.
Women's Action Committee for Lasting Peace.
Federal Council of the Churches of Christ in America.
Catholic Association for International Peace.
Pennsylvania Bar Association.
National Council of Jewish Women.
National Education Association.

C. OVERWHELMING PUBLIC SUPPORT

The subcommittee was impressed by the fact that all the witnesses who appeared were enthusiastically in favor of the acceptance on the part of the United States of the jurisdiction of the International Court of Justice with respect to legal disputes. The general feeling seemed to be that such a step taken now by the United States would be the natural and logical sequel to our entry into the United Nations. Twelve months' consideration since the signing of the Charter has strengthened the conviction that this action would immediately increase faith in the efficacy of the United Nations to promote order and peace.

This relative unanimity of American public opinion was demonstrated on December 18, 1945, when the house of delegates of the American Bar Association, without a dissenting vote, passed a resolution urging the President and the Senate to take appropriate action at the earliest practicable time to accept the compulsory jurisdiction of the court. The American Society of International Law, on April 27, 1946, likewise adopted a favorable resolution by a unanimous vote. Many other national organizations, with large memberships, including the American Association of University Women, the General Federation of Women's Clubs, the Federal Bar Association, the Inter-American Bar Association, the Federal Council of Churches, the National League of Women Voters, the American Veterans Committee, the National Education Association, the National Council of Catholic Women, and the American Association for the United Nations, have similarly endorsed the proposal.

D. FAVORABLE ACTION BY FOREIGN RELATIONS COMMITTEE

On July 17 and 24 the subcommittee reported its findings to the Senate Foreign Relations Committee. After a discussion of the legal and constitutional issues involved (see secs. G and J below) the committee reported the resolution to the Senate for favorable action. The vote, which was taken on July 24, was unanimous.

E. PURPOSE OF THE RESOLUTION

The immediate purpose of the resolution is to authorize the President to file with the

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Secretary General of the United Nations a declaration accepting the compulsory jurisdiction of the International Court of Justice over certain categories of legal disputes arising between the United States and any other nation which has accepted the same obligation. The United States would acquire the right and duty to sue or be sued in respect to such other States and would give the Court the power to decide whether the case properly falls within the terms of the agreement.

The ultimate purpose of the resolution is to lead to general world-wide acceptance of the jurisdiction of the International Court of Justice in legal cases. The accomplishment of this result would, in a substantial sense, place international relations on a legal basis, in contrast to the present situation, in which states may be their own judge of the law.

The United States has now become a member of the Court, but membership in itself means comparatively little. It is true that States can agree to submit specified cases to the Court, but they have always been able to settle their disputes by arbitration, assuming they could agree to do so. So long as individual members can refuse to be haled into the Court a regime of law in the international community will never be realized. The most important attribute of this or any other court is to hear and decide cases. For this function it must have jurisdiction of the parties and the subject matter.

F. OBLIGATIONS UNDER THE CHARTER OF THE UNITED NATIONS

The undertaking of this obligation by members of the United Nations is a logical fulfillment of obligations already expressed in the Charter. The preamble expresses the determination of the peoples of the United Nations—

"To establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained," and to this end "to insure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest."

Among the purposes of the United Nations set forth in article 1 is—

"To bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace."

One of the principles of the Organization as set forth in article 2 is that—

"All members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered."

Article 36, paragraph 3, of the Charter provides that the Security Council should "take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the statute of the Court."

In addition, by virtue of the general right of states to bring disputes before the Security Council, any state is liable to have its political disputes brought before the Council without its consent and to be subject to such moral obligation as attaches to a recommendation of the Council (arts. 36 and 37 of the charter). It is incongruous that such rights and obligations should exist with respect to political disputes but that there should be no similar obligation for the members of the United Nations to submit their legal disputes to adjudication.

G. JURISDICTION CONFERRED, DEFINED, AND LIMITED

The scope of the jurisdiction to be conferred pursuant to this resolution is carefully defined and limited.

There is, in the first place, a general limitation of jurisdiction to legal disputes. The resolution, like article 36, paragraph 2, of the Court statute, states this limitation in general terms and proceeds to define the four categories of disputes thus included. These are:

- a. the interpretation of a treaty;
- b. any question of international law;
- c. the existence of any fact which, if established, would constitute a breach of an international obligation;
- d. the nature or extent of the reparation to be made for the breach of an international obligation.

A second major limitation on the jurisdictions conferred arises from the condition on autocracy. This is again specified in the resolution in the language of the statute, the pertinent phrase being as follows: "recognizing . . . in relation to any other state accepting the same obligation, the jurisdiction of the International Court of Justice."

Jurisdiction is thus conferred only as among states filing declarations. In addition, the similar phrase in the Statute of the Permanent Court of International Justice was interpreted by the Court as meaning that any limitation imposed by a state in its grant of jurisdiction thereby also became available to any other state with which it might become involved in proceedings, even though the second state had not specifically imposed the limitation. Thus, for example, if the United States limited its grant of jurisdiction to cases "hereafter arising," this country would be unable to institute proceedings regarding earlier disputes, even though the defendant state might not have interposed this reservation.

A third limitation specified in the resolution is that the United States should bind itself only as to disputes arising in the future. The United States may not, therefore, be confronted with old controversies as a result of filing the proposed declaration.

A fourth limitation provides that the proposed action shall not impede the parties to a dispute from entrusting its solution to some other tribunal if they so agree. The same provision is found in the Charter of the United Nations, article 95.

The fifth limitation is that the proposed declaration shall not apply to matters which are essentially within the domestic jurisdiction of the United States. A provision similar in principle is found in article 2, paragraph 7, of the Charter, providing that nothing in the Charter shall authorize the organization to intervene in essentially domestic matters. The committee feels that the principle is also implicit in the nature of international law, which, under article 38, paragraph 1, of the statute, it is the duty of the Court to apply. International law is, by definition, the body of rights and duties governing states in their relations with each other and does not, therefore, concern itself with matters of domestic jurisdiction. The question of what is properly a matter of international law is, in case of dispute, appropriate for decision by the Court itself, since, if it were left to the decision of each individual state, it would be possible to withhold any case from adjudication on the plea that it is a matter of domestic jurisdiction. It is plainly the intention of the statute that such questions should be decided by the Court, since article 36, paragraph 6, provides:

"In the event of a dispute as to whether the court has jurisdiction, the matter shall be settled by the decision of the Court."

It was also brought to the attention of the subcommittee that a number of states, in filing declarations under the statute of the Permanent Court of International Justice, interposed reservations similar to that of the resolution under consideration, but in no case did they reserve to themselves the right of decision. The committee therefore decided that a reservation of the right of decision as to what are matters essentially within domestic jurisdiction would tend to defeat the purposes which it is hoped to achieve by means of the proposed declaration as well as the purpose of article 36, paragraphs 2 and 6, of the statute of the Court.

The resolution provides that the declaration should remain in force for a period of 5 years and thereafter until 6 months following notice of termination. The declaration might, therefore, remain in force indefinitely. The provision for 6 months' notice of termination after the 5-year period has the effect of a renunciation of any intention to withdraw our obligation in the face of a threatened legal proceeding.

Hon. John Foster Dulles, adviser to the State Department in relation to the Dumbarton Oaks proposals and adviser to the United States delegation to the United Nations Conference on International Organization, which drafted the Charter and the statute of the Court, filed a memorandum with the subcommittee favoring agreement by the United States to submit to impartial adjudication its legal controversies. He pointed out that failure to take that step would be interpreted as an election on our part to rely on power rather than on reason.

Mr. Dulles advocated that the United States ought now to make the declaration submitting this country to the jurisdiction of the Court according to article 36(2) of the Court statute. He suggested, however, clarification of certain matters in the declaration to wit:

"1. Advisory opinions: The compulsory jurisdiction should presumably be limited to disputes which are actual cases between states as distinct from disputes in which advisory opinions may be sought."

On this point the committee view is that the jurisdiction to be accepted pursuant to Senate Resolution 196 is coextensive with the jurisdiction defined in article 36(2) of the Statute of the Court, which is limited to legal disputes as distinct from the broader category of cases referred to elsewhere in the statute.

With respect to Mr. Dulles' suggestion, Hon. Charles Fahy, legal adviser of the State Department, made the following reply:

"The declaration under article 36 (2) would grant jurisdiction in 'all legal disputes,' as therein described. But the jurisdiction of the court (art. 36 (1)) extends to 'cases which the parties refer to it' and 'all matters especially provided for in the Charter of the United Nations or the treaties and conventions in force.' Thus the Court's possible jurisdiction is broader than the jurisdiction conferred by a declaration under article 36 (2). The provisions of article 36 (2) are limited to 'legal disputes.' This compulsory jurisdiction clearly excludes cases which are not legal disputes, such as a case to be decided ex aequo et bono under article 38 (2) if the parties separately so agree. Such agreement, of course, would be over and above any jurisdiction accepted by the proposed declaration under article 36 (2). The only jurisdiction of the Court with respect to advisory opinions (art. 65) is as to a legal question on request of whatever body may be authorized to make such a request under the Charter. It is entirely apart

from the compulsory jurisdiction which a state grants by its declaration under article 36 (2). No provision in the declaration would seem necessary to make it clear that the declaration under article 36 (2) is indeed limited to the jurisdiction covered by that article.

"2. Reciprocity: Jurisdiction should be compulsory only when all of the other parties to the dispute, have previously accepted the compulsory jurisdiction of the Court.

The committee considered that article 59 of the Court statute removed all cause for doubt by providing:

"The decision of the Court has no binding force except between the parties and in respect of that particular case.

If the United States would prefer to deny jurisdiction without special agreement in disputes among several states, some of which have not declared to be bound, article 36 (3) permits it to make its declaration conditional as to the reciprocity of several or certain states.

Mr. Dulles' objection might possibly be provided for by another subsection in the first proviso of the resolution, on page 2, after line 14, reading:

"c. Disputes arising under a multilateral treaty, unless (1) all parties to the treaty affected by the decision are also parties to the case before the Court, or (2) the United States specially agrees to jurisdiction.

"3. International law: If the basic law of the case is not found in an existing treaty or convention, to which the United States is a party, there should be a prior agreement as to what are the applicable principles of international law.

The committee considered both the policy and the parliamentary problems this suggestion raises and decided to leave Senate Resolution 196 unchanged as to this point, for the following reasons:

Article 92 provides:

"The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter."

The Charter cannot be amended by a mere declaration of some of the states parties to the present statute. What a state may do is limited by article 36 (3):

"The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain states, or for a certain time."

This does not permit a state to condition submission upon different principles of international law than those which article 38 commands to be used, thus:

"1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

"a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;

"b. international custom, as evidence of a general practice accepted as law;

"c. the general principles of law recognized by civilized nations;

"d. subject to the provisions of article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

"2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto."

To accomplish substantial alteration of the applicable principles of the international law would require consent of all the other parties to the Charter. The purpose of this declaration is to avoid the procedural necessity of "Special agreement" and to recognize

jurisdiction *ipso facto* over the specified subject matter and parties.

Hon. Charles Fahy, legal adviser of the State Department, in a memorandum prepared for the committee, replied to Mr. Dulles' suggestion as follows:

"3. Mr. Dulles suggests there should be prior agreement as to what are the applicable principles of international law if the basic law of the case is not found in an existing treaty or convention. He feels that to permit jurisdiction of legal disputes concerning "any question of international law" is too vague at this time.

"It is most inadvisable to accept this view. It would seriously impede the progress of the Court in the accomplishment of its purpose. The procedure followed in the case of the Alabama arbitration, referred to as an instance where previous agreement on the applicable law was had, was long before the establishment of the Court. The Charter of the United Nations and the present statute of the Court are designed to enlist sufficient confidence in judicial determinations by the Court to enable it to become a useful organ in the settlement of legal disputes. To require now an agreement, in advance of submission to the Court, on the applicable principles of international law would take from the Court one of the principal purposes of its creation. The United States should not insist on such a requirement. Whatever risk to the United States is involved in entrusting cases to the Court for its determination of the applicable basis of decision under international law is outweighed by the tremendous advance which would be made by our acceptance of such risk in the development of judicial processes in the world order."

Other points referred to the committee by Mr. Dulles for clarification related to the problem of domestic jurisdiction, the possibility of resorting to other tribunals, and the desirability of establishing a time limit for any declaration the United States might make.

As has been indicated above, domestic jurisdiction is safeguarded by article 1 (1) of the Charter of the United Nations, limiting the purposes of the United Nations to international disputes or situations, by article 2 (7) excluding domestic jurisdiction. The committee accepted article 36 (6) of the statute as covering this point.

"In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court."

The right to submit disputes to other tribunals is reserved in Senate resolution 196, page 2, line 8. This reservation is permitted by article 95 of the Charter.

With respect to a possible time limitation, Senate Resolution 196 provides for 5 years' duration, plus time of 6 months following notice of termination of the declaration. A further discussion of these points will be found in the first part of section (G) above.

H COMPULSORY JURISDICTION PRIOR TO THE UNITED NATIONS

The first important step in the direction of compulsory jurisdiction was taken by the Advisory Committee of Jurists appointed by the League of Nations in 1920 to prepare the Statute of the Permanent Court of International Justice. This committee, which included among its members the Honorable Eithu Root, former member of the Senate Foreign Relations Committee, Secretary of War, and Secretary of State, recommended a draft providing for general compulsory jurisdiction over specified categories of legal disputes. It was proposed that this should be binding upon all parties to the statute. This provision proved unacceptable to some of the larger powers when it was presented

to the League Council and Assembly, and there was substituted for it a provision very similar to article 36, paragraph 2, of the present statute, enabling such states as desired to do so to agree among themselves to accept the jurisdiction of the Court as to the enumerated categories of legal disputes.

Under this provision some 44 states, including 3 of the 5 states now permanent members of the Security Council (Great Britain, France, and China), at one time or another deposited declarations accepting this jurisdiction.

Proceedings were invoked in 11 cases under these declarations two of which proceeded to final determination. One of these was the Eastern Greenland case, involving conflicting claims to territory by Norway and Denmark. Upon the rendering of the decision of the Court, Norway withdrew the decrees affecting the territory which had precipitated the dispute. The second case which went to decision involved a claim by the Netherlands against Belgium for alleged wrongful diversions of water from the Meuse River. The other nine cases were terminated on procedural points or were withdrawn.

I. COMPULSORY JURISDICTION UNDER THE UNITED NATIONS

The negotiations leading to the conclusion of the statute of the new International Court of Justice saw a renewal of the effort to obtain general compulsory jurisdiction. It is indicated in the Report of the 1945 Committee of Jurists, which met in Washington to formulate proposals relating to the judicial organ of the proposed world organization, that a majority of the Committee was in favor of compulsory jurisdiction. At San Francisco the discussion was renewed, and again a very substantial body of opinion was shown in favor of general compulsory jurisdiction. Due to the opposition of some states and the doubtful position of others, it was felt, however, that such a provision might endanger acceptance of the Charter, of which the statute was to be an integral part. This was the position of the United States delegation. It was, therefore, agreed to retain the optional provision in a form similar to that employed in the Statute of the Permanent Court of International Justice. This is the present article 36, paragraph 2 of the statute, pursuant to which the action envisioned by present resolution would be taken.

The San Francisco Conference added an additional paragraph to article 36 of the statute, according to which declarations accepting the jurisdiction of the old Court, and remaining in force, are deemed to remain in force as among the parties to the present statute for such period as they still have to run. Nineteen declarations are currently in force under this provision.

A further indication of the sentiment prevailing among United Nations delegations at San Francisco was the adoption by the Conference of a recommendation to the members of the Organization—"that as soon as possible they make declarations recognizing the obligatory jurisdiction of the International Court of Justice according to the provisions of article 36 of the statute."

J. THE CONSTITUTIONAL ISSUES INVOLVED

During the discussion which took place in the subcommittee three important constitutional issues were raised. These issues were: (1) Can the proposed action be taken by the treaty-making process or is a joint resolution of the two Houses preferable; (2) is it proper procedure to obtain the advice and consent of the Senate prior to the deposit of the declaration by the President; and (3) would the deposit of the declaration by the

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President establish treaty relations between the United States and the United Nations or between the United States and the various members of the United Nations who have deposited similar declarations.

With respect to the first issue, a declaration of this kind is no doubt unique so far as the United States is concerned. No one however, can doubt the power of this Government to make such a declaration. The question is one of procedure. During the debates on the United Nations Charter the problem was discussed at some length on the floor of the Senate, and it was generally agreed that the President could not deposit the declaration without congressional action of some kind granting him the authority to do so. To clarify the issue Senator VANDENBERG requested an opinion of Mr. Green Hackworth then legal adviser of the Department of State. The pertinent paragraph of this opinion. Which Senator VANDENBERG read on the floor of the Senate on July 28, 1945, follows: "If the Executive should initiate action to accept compulsory jurisdiction of the Court under the optional clause contained in article 36 of the statute, such procedure as might be authorized by the Congress would be followed, and if no specific procedure were prescribed by statute, the proposal would be submitted to the Senate with request for its advice and consent to the filing of the necessary declaration with the Secretary General of the United Nations."

Since that time both the President and the Secretary of State have indicated that, in their opinion, either the procedure outlined in the Senate Resolution 196 (calling for a two-thirds vote of the Senate) or that outlined in House Joint Resolution 291 (calling for a simple majority vote of the two Houses) would furnish a satisfactory legal basis for acceptance by the United States of the compulsory jurisdiction clause.

Inasmuch as the declaration would involve important new obligations for the United States, the committee was of the opinion that it should be approved by the treaty process, with two-thirds of the Senators present concurring. The force and effect of the declaration is that of a treaty, binding the United States with respect to those States which have or which may in the future deposit similar declarations. Moreover, under our constitutional system the peaceful settlement of disputes through arbitration or judicial settlement has always been considered a proper subject for the use of the treaty procedure. While the declaration can hardly be considered a treaty in the strict sense of that term, the nature of the obligations assumed by the contracting parties are such that no action less solemn or less formal than that required for treaties should be contemplated.

With respect to the second issue the answer may be found in the Constitution itself. Article 2, section 2, provides that the President shall have "power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." It is evident that the advice and consent of the Senate is equally effective whether given before, during, or after the conclusion of the treaty. In fact, President Washington approached the Senate for its advice and consent prior to the negotiation of treaties, and this practice was followed on occasion by other Presidents. While the practice of prior consultations with the Senate fell into disuse after 1816, a recent precedent may be found in the convention of 1927, extending the General Claims Commission, United States and Mexico of 1923. The treaty was signed on August 16, 1927, pursuant to a Senate resolution of February 17, 1927. A similar example is the convention of 1929, again ex-

tending the life of the Commission. The convention was signed on August 17, 1929, pursuant to the Senate resolution of May 25, 1929.

With regard to the third issue, the proposed declaration would not constitute, in any sense, an agreement between the United States and the United Nations. It is rather a unilateral declaration having the force and effect of a treaty as between the United States and each of the other states which accept the same obligations. It is merely an extension of the general principle that any two states may agree to submit cases to arbitration or judicial settlement. The so-called optional clause would permit a large number of states to take such action with respect to the four categories of legal cases enumerated.

As to whether the United States can enter into a treaty with the United Nations, the question is not here at issue. In any event, it is clear that the United States can conclude agreements with the United Nations, inasmuch as the United Nations Participation Act authorized the President to take such action in conformity with the pledge of the United States to make armed forces available to the Security Council under article 43 of the Charter. Moreover, there appears to be nothing in the Constitution which forbids the conclusion of a treaty between the United States and an international organization.

If it follows that the legal capacity of the United Nations is all that is required to enable the United States and the United Nations to enter into treaty relationships, article 104 of the Charter would seem to establish that authority. Article 104 reads:

"The Organization shall enjoy in the territory of each of its members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes."

K. DESIRABILITY OF SPEEDY ACTION

Most of the witnesses appearing before the subcommittee expressed the hope that the Senate would act speedily in order to demonstrate once more the conviction of the people of the United States that peace will be possible only if law and justice are firmly embedded in the foundations of the United Nations. To be sure, the extension of the compulsory jurisdiction of the International Court of Justice will not usher the world automatically into an era of peace; it is only one important step in man's long and painful march toward a warless world. The acceptance by the United States of the compulsory jurisdiction clause, however, would constitute a step of great psychological and moral significance. It would help develop a spirit of trust and confidence, particularly on the part of the small states, toward the United States. And it would give impetus to the principle of the peaceful settlement of disputes as the judges of the new Court begin their work at the Peace Palace in The Hague.

On July 28, 1945, the Senate ratified the United Nations Charter by the overwhelming vote of 89 to 2. Since that time the people of the United States, the Senate, the House of Representatives, the President, and the Secretary of State have repeatedly asserted the conviction that the foreign policy of the United States must be centered about the activities and the organs of the United Nations. The International Court of Justice is one of the principal organs of the United Nations. It would seem entirely consistent with our often pronounced policy for the Senate to take speedy action in order to ensure our full cooperation with the work of the Court at the earliest practicable date.

The Senate Foreign Relations Committee, in its report to the Senate on the United Nations Charter, expressed the following view:

"Unless we are prepared to take all steps which are necessary to effectuate our membership in the United Nations, we would be merely deceiving the hopes of the United States and of humanity in ratifying the Charter."

Mr. KENNEDY. Mr. President, 2 weeks ago, I expressed the opinion that the debate we were about to have would be the most important debate we would have this session. Today, we are about to take a vote that could be the most significant vote of this decade.

This vote is significant because it involves the lives of innocent people. Today, we will vote to save innocent lives, or we will vote to take innocent lives.

With this vote, we will also determine whether the United States of America, under the direction of President Reagan, will continue its march toward war in Central America. With this vote, we will decide whether U.S. funds should continue to be used for—and whether U.S. personnel should continue to be involved in—the indiscriminate mining of territorial waters in Nicaragua.

On March 29, just as our debate about Central America was beginning, we learned that U.S. personnel were being used on reconnaissance missions over El Salvador to assist the Salvadoran Army in combat with the guerrillas. And last Friday, after our debate had ended, we learned that U.S. personnel were being used to mine the harbors and territorial waters of Nicaragua. That same day, the Secretary of State quietly withdrew this Nation from the jurisdiction of the World Court with respect to disputes with Central American nations. But we did not know about that then, and we did not learn about that until yesterday.

President Reagan is moving us toward war. He has moved U.S. citizens up to the edge of combat, and he has involved U.S. citizens in the hostilities.

Last week, we debated whether the United States should continue to provide military assistance to the Contras in Nicaragua. Last week, on the floor of the Senate, we debated whether such assistance was in violation of international law. We were repeatedly assured that the Contras were not engaged in efforts to overthrow the Government of Nicaragua. We were repeatedly told that the Contras were not conducting a war to destroy the economic infrastructure of Nicaragua. If that were true, many Senators said, we would not be voting to support the Contras. And even the President of the United States got into the debate. He sent a letter in which he assured us that the United States did "not seek to destabilize or overthrow the government of Nicaragua; nor to impose or compel any particular form of govern-

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ment there." But 2 days later, the United States of America withdrew from jurisdiction of the World Court.

The question before the Senate is a fundamental one: Will we take any responsibility at all—or will we abdicate completely to the executive branch? Will we condone terrorism and sabotage? Will we let the Reagan administration pursue a policy of sneaking war into Central America?

We have turned our backs on diplomacy.

We have turned our backs on international law.

Will the Senate watch passively as this administration sovietizes American foreign policy—as it adopts the standard that the end justifies the means—as it avoids our constitutional process and misleads the Congress?

The truth is confessed only when the administration is caught in the act. Such confession is not the kind of consultation which the Congress deserves or should demand. Such surprises are not the basis for bipartisanship.

Often in this debate, I have raised the question of our obligation to history. I raise it again. How will the Senators here explain someday that American sons are dying in an unwinnable war in Central America because we lacked courage to take a stand—or because we followed a political calculus which held that the administration should be permitted to twist slowly in the political wind? For what is being strangled rapidly now is the hope for a peaceful settlement.

The administration said we had no combat role in El Salvador. On March 29, we learned this was untrue—and that our forces were engaged in combat reconnaissance in that country.

The administration said that we were not seeking to destabilize the Government of Nicaragua; we only sought to interdict arms and supplies for the rebels in El Salvador. Now we have learned that this is untrue—that we have mined a port far from any point of arms shipments to El Salvador—and that our mines may blow up the ships of our NATO allies.

We know the evasions, the rationalizations, the fabrications, for we have heard them from this administration until they have become as tattered as they are untrue. We have no excuse for continued inaction.

Let us end escalation by surprise in Central America.

Let us at long last exercise the power we were elected to use—and let us say to this administration, "Enough is enough. You shall no longer move toward war before trying for peace."

● **Mr. GOLDWATER.** Mr. President, there has been a good deal of discussion in the press recently about remarks I allegedly made on the floor of the Senate last Wednesday night, April 5, 1984.

An article in the Wall Street Journal on the following day stated:

During Senate debate this week, the Intelligence Committee Chairman, Barry Goldwater, (R., Ariz.) surprised other Senators by openly referring to a document or paper indicating that the administration had directly authorized the mining. Mr. Goldwater's remarks were dropped from the published record made available yesterday, and while an aide to the Senator dismissed the matter, two other sources indicated that such a paper or staff memo did exist.

As well, an article in the New York Times this Monday stated:

Senator Barry Goldwater, the chairman of the Senate Intelligence Committee, inadvertently referred to the covert operation in floor debate. A Senator said Mr. Goldwater, an Arizona Republican, later had his remarks deleted from the Congressional Record.

There may have been other references to this matter as well.

Mr. President, in almost 30 years service in the U.S. Senate I have never had my remarks deleted from the Record. However, what we were confronted with last week was a rather unusual situation—in fact, it was a unique situation which I have never encountered before.

When the Senate Select Committee on Intelligence was established in the spring of 1976, Senate Resolution 400 gave the committee jurisdiction and authority to consider all legislation and other matters relating to authorizations for appropriations for the Central Intelligence Agency. Section 501 of the National Security Act of 1947, which was enacted as part of the Intelligence Authorization Act for fiscal year 1981, imposes an obligation upon the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States involved in intelligence activities to keep the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of any department, agency, or entity of the United States, including any significant anticipated intelligence activity.

Section 662 of the Foreign Assistance Act of 1961, as amended by the Intelligence Authorization Act for fiscal year 1981, requires that each operation conducted by or on behalf of the Central Intelligence Agency in a foreign country, other than activities intended solely for obtaining necessary intelligence, shall be considered a significant anticipated intelligence activity for the purpose of section 501 of the National Security Act of 1947.

Mr. President, I am providing this background to make it clear to my colleagues that if the CIA was engaged in the mining of selected harbors in Nicaragua, this fact would of necessity have been briefed to me and to my committee or committee staff ahead of time. I say it would have been briefed of necessity, Mr. President, because

this is the law. Now we may all debate whether this is a good law or a bad law or an indifferent law, but it is the law.

Now, last Wednesday night, during open debate on the floor of the Senate, a member of my committee came to me to ask if I had seen a document which indicated that the President ordered the mining of selected harbors in Nicaragua. I responded to him by saying that I had seen no such document and that I could not believe the President could have approved such a program since our committee had not been so briefed. Nor had I received any such briefing. After a few minutes' investigation, I learned that the document my member had referred to was simply an informal memorandum from a staff member to a Senator. It had been hastily pulled together in response to a couple of questions on the mining, and had no official standing as far as I was concerned. Although I conveyed these findings to my colleagues on the floor, I felt the matter deserved further inquiry, and my remarks were struck until such a time as further clarification could be obtained.

Mr. President, this afternoon, CIA Director Casey appeared before my committee in closed session to brief us on this issue. I learned to my deep regret that the President did approve this mining program, and that he approved it almost 2 months ago. Furthermore, I learned that in spite of the legal requirement that the intelligence family keep the members of our committee fully and currently informed on this sort of matter, we had not been so informed. By contrast, the House Permanent Select Committee on Intelligence had been fully briefed on this matter several weeks ago.

Now I have written Director Casey that this is no way to run a railroad. I am forced to apologize to the members of my committee because I did not know the facts on this case, and I apologize to all Members of the Senate for the same reason.

Mr. President, I have always felt strongly about the issue of leaks and of protecting the legitimate secrets of our Nation. So I will not comment further on this matter for the public record. However, I am prepared to provide any Member of the Senate with further details on this matter in private if they so desire. As well, Members of the Senate may wish to visit the offices of the Select Committee on Intelligence to review documents and transcripts on this matter, as well as to talk to our cleared staff. I consider this a matter of great importance, not just to the members of our committee, but to the Senate as a whole. And I am prepared to share whatever information we do have at this time. ●

MINING OF NICARAGUAN PORTS

Mr. SPECTER. Mr. President, I am voting in support of this amendment because I am concerned that the reported CIA involvement in the mining

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of Nicaraguan ports is part of a broader U.S. covert effort that effectively supports the overthrow of the Government of Nicaragua in violation of the Congress legislative statement of 1982. Last week I supported an amendment to delete \$21 million for the covert war against Nicaragua.

While the official purpose of U.S. covert aid to Nicaraguan Contras is the interdiction of the flow of arms from Nicaragua to El Salvador, the express goal of the Contras is the overthrow of the Sandinista government. While it may be argued that the mining of Nicaraguan ports will help to interdict the flow of arms between Nicaragua and El Salvador, the effect of the mining goes beyond this limited goal. Mines are blind to the cargo and flag of the vessels that trigger them, damaging commercial vessels as easily as those transporting Soviet and Cuban armaments. I am concerned that our actions in and around Nicaragua have dangerous repercussions beyond our stated goals, and that our present involvement is contrary to the stated intent of Congress. The Congress has not declared war against Nicaragua, yet the mining of another nation's harbors, like support for a group whose expressed objective is the overthrow of a government with which we have full diplomatic relations, may be interpreted as an act of war.

If it is the will of American people to wage, either directly or indirectly, a war against the Government of Nicaragua, let Congress debate and so declare its intent. If it is not the intent of the United States to overthrow the Government of Nicaragua, let us not engage in support of activities that may be interpreted as acts of war.

Mr. GLENN. Mr. President, I rise to state my strong support for Senator KENNEDY's amendment—and to voice my strong opposition to administration policy. American participation in the mining of Nicaragua's harbors is more than a mere contravention of international law. It constitutes a policy that is strategically wrong, politically stupid, and morally outrageous. It is a policy that comes dangerously close to being an act of war—and I say it is time for Congress to bring it to a halt.

Let there be no mistake about what is at issue today. We are not talking about whether the United States should be involved in Central America—or about whether we should provide financial assistance to democratic elements in that region. I have long voiced my support for economic and military help to the governments of El Salvador and other central American countries—and so have a majority of my Senate colleagues. I have long voiced my concern over Nicaragua's seeming desire to export revolution in that region—and so have a majority of my Senate colleagues. Like you, I believe the United States has an obligation to encourage the voices of moderation and democracy in Central Amer-

ica—and to discourage the forces of tyranny and dictatorship.

But those goals are not at issue today. What is at issue is the Reagan administration's cavalier attitude toward basic principles of international law. What is at issue is the administration's continuing love affair with gunboat diplomacy and the politics of force. And what is at issue is the administration's blatant disregard for Congress role in the making of U.S. foreign policy.

Apparently, Mr. Reagan thinks that when it comes to the use of military force, the job of Congress is to keep its eyes closed, its checkbook open, and its mouth shut. He seems to think that it is all right to violate international law and to spit in the eyes of our allies, and he apparently expects Congress to dutifully go along and do only what we are told.

Well, I say enough is enough. I say the time has come for us to stand up and serve notice on this administration; to serve notice that we are not content to be silent partners in a misguided policy that ignores our national interests and betrays our national principles. Let us serve notice that when American lives are at stake, Congress can no longer be expected to first look the other way—and then to rally round this administration's failures.

By directing the CIA to participate in the mining of Nicaragua's harbors, the Reagan administration has embarrassed the Congress and the country. It has put us in the ridiculous position of laying mines that our Western European allies may help to remove. It has put us in the preposterous position of attempting to topple at worst or bully at best a government we recognize and with whom we have diplomatic relations. And it puts us in the hypocritical position of opposing state-sponsored terrorism when it is directed against our friends—and of condoning and even conducting it when it is directed against our real or imagined enemies.

Finally, Mr. President, let me say that I am deeply concerned about what this latest action by the administration may signal about its future foreign policy intentions. I need not remind you that the mining operation was carried out without the knowledge of the Senate Intelligence Committee. I need not remind you that virtually our entire foreign policy in Central America—from the use of training funds to build military infrastructure in Honduras to the not-so-secret war in Nicaragua to the mining of that country's harbors—has been conducted outside the normal policymaking framework of this Nation. And I am sure I need not remind you that just this past weekend, unidentified White House advisers were darkly warning about the probable use of U.S. combat troops in Central America—although not until 1985 and not until this year's election has safely passed.

Mr. President, I believe there is a pattern here—and I believe we must show the administration that we find it to be completely unacceptable. Again, I am not calling for a retreat from our responsibilities in Central America. Nor am I suggesting that there are no circumstances under which the use of force in that region would be acceptable. But I am suggesting that no U.S. foreign policy—in that region or any other—can be successful unless it has the support of Congress and the American people. I am suggesting that it is time we call a halt to the administration's high-handed attitude and underhanded tactics. And I am suggesting that it is time Congress asserted its rightful place in the making of American foreign policy—and stopped the wrongful mining of Nicaraguan harbors. I ask my colleagues to give this amendment their wholehearted and enthusiastic support.

MINING NICARAGUAN HARBORS

Mr. HUDDLESTON. Mr. President, the disclosure of the mining of Nicaraguan harbors by the CIA has raised the most serious questions about U.S. policy and the effectiveness of the intelligence oversight process. It is very disturbing that the Select Committee on Intelligence was not fully and properly informed of this matter, which was so clearly and directly relevant to our consideration of the recent supplemental appropriations bill to provide additional funds for CIA operations in Nicaragua.

Had I been aware of the mining activities, I would have voted against any funds for that purpose. That knowledge would also have given cause for me to reconsider my support of the supplemental appropriation for the entire operation.

The records of the Select Committee have been reviewed, and we have found only one reference to mining activities. It did not convey the nature, extent, or seriousness of what has been going on.

It is very important for all of us to understand why the mining of Nicaraguan harbors is so objectionable. The fundamental problem is that it is indiscriminate, rather than directed against specific targets. I could support action to interdict a particular vessel known to be carrying arms to Nicaragua that could reasonably be expected to go to guerrillas in El Salvador. That action could be justified as necessary to protect El Salvador from outside military intervention.

However, the mining operations that have been carried out are far different. They pose a danger to ships from entirely innocent countries, carrying nonmilitary cargo. Our closest allies, such as Britain and France, have had their ships and the lives of their citizens placed in jeopardy. Moreover, innocent fishing boats manned entirely by civilians earning their livelihood are placed in danger.

It makes no difference if the mines are constructed so as not to sink the ships. They still do damage to property and endanger human lives.

Over the past year I have tried to work with my colleagues on the Select Committee to insure that the administration's operations against Nicaragua would be subject to the closest possible oversight scrutiny and review. Unfortunately, the oversight process has not worked in this case to keep the committee fully and currently informed of all significant anticipated intelligence activities, as contemplated by the congressional oversight provisions enacted in 1980.

We need to learn from this experience. The risk of the type of paramilitary operations undertaken against Nicaragua appears to be that they inevitably get out of control. The Select Committee has attempted, in a bipartisan way, to prevent this from happening. We will continue to do all that we can to insure that the administration's use of the CIA's sensitive capabilities is held accountable through congressional oversight to the principles and interests of the American people.

● Mr. BOREN. Mr. President, I am convinced that the vast majority of the American people could be described as political moderates. They tend to distrust both the extremism of the right and of the left. They do not want government to be so active that it stifles individual initiative but they do not want it to be so inactive that it fails either to protect equal opportunity of all citizens or to provide for those who are unable to help themselves.

In foreign policy they are not naive isolationists who would concede our vital interests in the world to our adversaries. Neither are they reckless interventionists who would squander our power carelessly in situations which we cannot win or which needlessly endanger the lives of our young people.

Our country has been well served by the commonsense and sound moderate judgment of our people. It has generally been reflected in the ability of our political leaders to form a consensus around which most Americans could rally both in terms of domestic and foreign policy.

For moderates, however, these are difficult and frustrating times. The process for picking our national leaders seems to favor those who tend to the polar positions instead of those closer to the reasonable mainstream of the total population.

Our sense of community has been fragmenting. More energy is spent in appealing to narrow single-interest groups than in uniting all Americans for the common good. Too much time is spent in scoring partisan political points than in forming nonpartisan coalitions to solve problems.

The moderate majority is often left to select the lesser of evils among extreme choices. The current situation is

an example of just that kind of dilemma.

As my colleagues in the Senate know, I earnestly hope for a bipartisan consensus on foreign policy. To me, politics ideally should stop at the water's edge. Each of the 535 Members of Congress cannot be Secretary of State or Commander in Chief. If Congress secondguesses every decision by a President, we will send an uncertain signal to the rest of the world.

Others around the world have come to wonder about the ability of the President to speak for the United States. Even our allies publically question our ability to live up to our commitments. Our frequent changes of direction have left our credibility in doubt. Our family fights have been watched by the entire world.

To be perfectly honest, neither the President nor the Congress, Democrats nor Republicans, can be very proud of the record of the last decade when it comes to healing the wounds of the sixties and building a spirit of bipartisanship in foreign policy. The President was not fair in blaming Congress for the failure of the administration's policy in Lebanon. It was a flawed policy in the beginning. Injecting a small number of American troops into a long, bitter, religious war among several factions would not have succeeded even if Congress had voted unanimously to support it.

On the other hand, there were those in Congress who were too quick to criticize the President when he took decisive and appropriate action to use our power to protect our interests in Grenada. The objective was limited and the chances for success were excellent.

Some have used the Vietnam experience to argue for complete isolationism. They seem prepared to criticize any possible use of American power, under any circumstances or in any part of the world. Such a policy would render the United States impotent in the eyes of the world. It would encourage our adversaries to test us and would increase the risk of conflicts.

As I said earlier, I believe that the vast majority of the American people reject this naive isolationism which is in short a policy of international capitulation.

I cannot believe that the American people want us to simply give up Central America and allow regional instability in our own backyard to move ever closer to our 1,800-mile frontier with Mexico.

On the other hand, if we reject isolationism, we must not embrace reckless interventionism.

I have tried to follow a moderate bipartisan course. Last week, I voted consistently against amendments which I felt would unduly tie the hands of the President in responding to emergencies in Central America. I voted against amendments which I felt would set unwise precedents altering

the President's constitutional powers as Commander in Chief.

I voted to support administration efforts in El Salvador to help the people there help themselves. As an observer to recent elections in that country, I am convinced that they were basically fair and honest. I have no doubt that the vast majority of the people there want the ballot and not the bullet to determine their future. Their democratic process deserves our encouragement and support.

While the outcome is far from certain, it would appear that there is at least a chance that El Salvador may be winnable. To me, the administration seems correct in wanting to give our best effort to attempt to stabilize the situation there.

In Nicaragua, the situation is less clear. The legacy of the past dictatorial government has clearly created some significant support for the current government. While it has been a close question in my mind, I voted to continue our efforts in Nicaragua aimed at stopping the flow of arms to hostile forces in other nations.

I have clearly done my best to build bipartisan support for a reasonable policy in Central America. We must test every aspect of that policy by weighing the moral issues involved and by carefully balancing the risks of the policy against the chance for success. To me it is clearly moral and in our interest to attempt to support the democratic process in El Salvador.

It is at least possible to argue that it is proper for us to interdict by practical means the flow of aggressive arms from Nicaragua.

The indiscriminate mining of Nicaraguan harbors in my opinion, however, clearly fails the test. It is subject to attack on moral grounds. It clearly runs grave risks because of the danger it can cause to ships of many nations, some of whom are allied to us. It could cause a major international confrontation if it resulted in loss of life of foreign nationals. While this tactic runs grave risks, they are certainly not balanced by any significant gain which is achievable by using it.

I deeply regret that this action has been taken. By resorting to careless use of our resources, the administration has at least in the short run only strengthened the position of those who would criticize what I believe are legitimate uses of our power in other areas in Central America.

My conscience and best judgment lead me to support the pending sense of the Senate amendment which condemns the mining of Nicaraguan harbors.

In reaching this decision, it should be clear that I do not embrace any policy of retreat or isolationism in Central America. Perhaps this current state of events will make it absolutely clear to both Congress and the President that we should urgently get on

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with the task of developing a bipartisan policy.

Let us hope that America's moderate majority will make itself heard. It is time for both Congress and the President to call a moratorium on the escalating rhetoric. We must forget past differences and sit down together. I hope that the President and congressional leaders of both parties will sit down together and in candor and good faith resolve their differences. Voluntarily agreeing to accept the congressional view that the mining of the harbor should be stopped would be a good first step on the part of the President. If he should take that step, let us hope that Congress would also be prepared to respond, positively. ●

U.S. INVOLVEMENT OF NICARAGUAN TERRITORIAL WATERS

Mr. JEPSEN. Mr. President, last week, the Senate voted on several aspects of military aid to Central America in the context of the urgent supplemental appropriations bill. Among the areas that were extensively debated, was the question of so-called covert aid to the Contras in Nicaragua. As the record shows, I have supported funding the amounts requested by the administration for these activities.

However, my support has been contingent on several principles involved with our aid to those groups within Nicaragua who are fighting to push Nicaragua back toward the path of a democratic and free society.

These principles included:

That the main goal of the funding was the interdiction of military supplies flowing from Nicaragua to the guerrillas in El Salvador.

That the aid be used to help only Nicaraguan nationals in their struggle against the Sandinista government.

That the aid not compromise the commitment of the United States to bringing about the rule of law in international relations.

Over the weekend, I began to read stories in the press of much more direct U.S. involvement in the contra operations that may, in my view, jeopardize everything that we have been attempting to accomplish there. I speak specifically of the reports of direct CIA involvement in the efforts to mine the territorial waters off Nicaragua.

When I read such reports, I am increasingly skeptical of the ability of some policymakers in the administration to develop successful strategies to deal with the growing number of challenges to the United States in the world.

Now I number myself in that group who want to put maximum pressure on the Sandinistas to fulfill the promises that they made to the OAS and to stop shipping military arms and ammunition to the guerrillas in El Salvador. Cuban and Nicaraguan interference in the internal affairs of the duly-elected Government in El Salvador is the major stumbling block to peaceful resolution of the many con-

licts in that country. Seen in the light of what we are trying to do in Central America, this most recent operation off of Nicaragua is plain dumb.

If viewed strictly in the light of narrow logistical and operational considerations, mining the coastal waters off Nicaragua may seem attractive as one way to put additional pressure on the Sandinistas. But if political and social factors are taken into consideration, the plan should have been rejected. To consider that political and social concerns would be bypassed by keeping such a large-scale operation "covert" shows an ignorance of history and an inordinate dose of wishful thinking.

If there is any relationship between reality and what I have been reading in the press, and I will be first to admit that the relationship is not always there, the U.S. involvement in the mining of Nicaraguan coastal waters violates many of the basic principles on which "covert operations" have been supported in Congress.

The best way to view the mining operation is to set up a balance sheet of costs and benefits. The benefits that the Contra mining could be expected to accrue are the following:

Mining the waters of Nicaragua would seriously damage the ability of Nicaragua to export her recently harvested commodities that are virtually the sole resource of foreign exchange. The result of this could be to stop the arms shipments to El Salvador and to fulfill the promises they made to the OAS.

Slowing the importation of oil could have the long-term effect of hampering the Sandinistas ability to carry out military operations against the Contras.

It appears that mining is being conducted in such a way as to stop short of sinking large ships, but merely serves as a deterrent to ships heading for Nicaraguan ports.

Against these so-called pluses a considerably greater number of minuses can be set.

Because of the sophisticated nature of the operation, U.S. citizens and non-Nicaraguan nationals hired by the CIA appear to be directly involved. This is an essential change in our role in Nicaragua.

Our open society and the size of the operation has virtually guaranteed a leak to the press.

Participation in the act of mining the territorial waters of another country is considered an "act of war" in the international community.

Damaging third party shipping raises serious questions about the U.S. commitment to freedom of the seas.

Once again the star of the Sandinistas is rising in Western Europe as world sympathy is aroused by our actions. There are now even discussions among our allies about helping to clear the mines from Nicaraguan waters.

This latest action has given the Nicaraguans the very limited amount of credibility they needed to bring a case against the United States to the World Court, the same body that we appealed to to obtain the release of American hostages in Teheran.

As a result, we have had to formally declare that we will no longer accept the jurisdiction of the World Court in matters involving the United States.

We have given the Nicaraguan Government an open opportunity to blame the United States for an economic failure that is in reality the fault of mismanagement by the Sandinistas.

The long-term effects of our involvement in the mining of Nicaraguan waters will be hard to predict, but we should terminate a policy which has and will continue to undermine our credibility in the international arena.

Mr. DURENBERGER. Mr. President, this is a most painful of occasions. For at least 5 years, many of us have been trying to help our executive branch forge a workable policy on Central America. Our progress has been difficult and slow. Now, in the last few years, we may be witnessing the unraveling of what little policy there was.

Faced with this crisis—and for once there is a crisis—the Senate has a responsibility. Our role must be to rescue American policy from its own excesses. We must not be the wrecking crew, but the salvage team.

The mining of Nicaraguan harbors illustrates the complexity of any activist foreign policy. It is one thing to decide on the broad outlines of such a policy—the one will engage in covert action in Nicaragua, for example, or that one will attempt to interdict arms flows into El Salvador. It is quite another thing, however, to implement that decision successfully.

I can understand why the executive branch would want to mine Nicaraguan harbors. Despite the doubts of my colleague, the senior Senator from Massachusetts, one might well feel that mining harbors was one way to stem the flow of arms from Cuba to Nicaragua, and from there into El Salvador. One might also hope that economic pressure on the Nicaraguan Government would lead that government to consider making its peace with its neighbors, with the United States, and especially with its own people, so many of whom fought for Nicaragua in 1979 and are now fighting for the Contras.

Presidents and executive branches seem less inclined to consider the downside of their policies. In their quest for activist solutions, they are hardly eager to ponder whether a tactic will actually do more harm than good.

The difficulty of combining a covert action policy with reasonable tactics has been present from the very start. When we first heard about this program, many of us wondered whether

covert action would—either by design or by accident—become an effort to overthrow the Government of Nicaragua. That risk was inherent in a policy of support for the Contras, as my able colleague, the senior Senator from Maine, so eloquently explained last night.

As a result of these concerns, the Boland amendment was passed in 1982. Over the ensuing months, many people became convinced that the overthrow of the Sandinistas was, indeed, our policy.

I did not, and do not, share that concern. We on the Intelligence Committee have had many briefings on the covert action program. We have sent staff members to get more material. And both Members and staff have made trips to the region. On the basis of all that material, I am convinced that the executive branch—and, in particular, the CIA—are faithfully obeying the Boland amendment.

I am also convinced, Mr. President, that the policies and actions of the Government of Nicaragua fully warrant a strong response. As I noted last week, even Democratic and left-of-center elements in Central America fear the aggressive policies of Nicaragua. They see the Sandinistas not as reformers, or even as revolutionaries, but rather as the prime supporters of terrorist and guerrilla violence in the region.

We must stand up to Nicaragua, and our objectives are surely honorable: An end to Sandinista support for foreign terrorism and guerrillas; a slicing down of Nicaragua's frightening military buildup; a fond farewell to Soviet and Cuban advisers in Central America; and a return to the pluralist system that the Sandinistas originally promised to the people of Nicaragua.

What is less certain, in this complex enterprise, is whether the implementation of our covert action policy has been rational or effective. Last year, we were faced with reports of Contras slitting the throats of teachers and other civilians, and the Contras seemed more concerned with showing the press what the Nicaraguan mountains were like than with undertaking actions that would rally local support or interdict arms flows.

So last year the Intelligence Committee told the President to rethink this program and to draft a new, more coherent finding that would set forth objectives and approaches to achieving those objectives. This was done last fall, and I think it was done well. The last year has seen less Contra grandstanding, apparently less reliance upon former Somocistas, and even some operations against targets that seem to be part of the Nicaraguan support chain for guerrillas in El Salvador.

On two points, however, I am sorely disappointed. One is the continuing gap between policies to pressure Nicaragua and policies to resolve the con-

flict. The other is the most recent evolution in our policy.

The gap between activist policies to pressure a country and efforts to settle disputes is an old one. What is sad is how little we learn from the past. For example, surely history teaches us that the chances for real negotiation are often fleeting, and that such chances are not to be dismissed. But what happened when the United States invaded Grenada? There was an initial period in which Fidel Castro, rightly frightened by this successful U.S. activism, counseled caution to his proteges in Nicaragua. The Sandinistas, in turn, showed true concern over U.S. intentions and gave hints of flexibility.

Did we take advantage of that brief opening? Perhaps I blinked, Mr. President, and did not see it. What I did see was a policy that kept up the pressure with military maneuvers and construction in Honduras, but did not combine that pressure with active efforts to determine what sort of accommodation the Sandinistas might be willing to make with their neighbors, with us, or with their own people.

Now it is harder. Now Nicaragua is moving toward elections—not truly free elections, but close enough to fool much of the world; not elections that give their people a real chance to reject Marxism-Leninism, but timed just before our own elections so that we will be too preoccupied to deal effectively with this challenge.

Now we are in the amazing fix of having some Contra groups offering to lay down their arms if a truly free election could be guaranteed, even though there are important other objectives to be gained as well. Now we have the most respected Members of the Democratic opposition to the Sandinistas refusing to participate in the elections, even though most of the world is likely to view those elections as valid. Now we see the Democratic forces in Nicaragua weak and divided, even though the daily flow of Nicaraguans into neighboring lands and Contra camps suggests that the people of Nicaragua might well reject their current masters in a free election.

And what do we see in the mining of Nicaraguan harbors? Does anybody believe, Mr. President, that the executive branch gave a thought to allied reaction when British and Dutch ships were struck by mines? Does anybody believe that the executive branch considered, before it went ahead, that Nicaragua might go to the U.N. Security Council and the World Court to gain a propaganda victory? Is there any sign that the executive branch ever considers how its own credibility with Congress is damaged when it does something like this and does not even tell the committee that is defending its policy on the floor of the Senate?

Most importantly, Mr. President, one wonders whether Presidents and their aides appreciate how each inept exercise of power, of which this is cer-

tainly one, erodes their credibility with the American people. This is not the first executive branch to squander that precious coin. But when, one wonders, when will they learn?

It was Thomas Jefferson who required us all to observe "a decent respect to the opinions of mankind." Now that was not a call for inaction. Rather, it was a call for coherent policy, cogently presented. But as the senior Senator from New York might well have said in our colloquy last week, a confusing newspaper interview will not measure up to the Declaration of Independence. And the Kissinger report, which is the closest thing we have to a coherent statement of Central America policy, is all but ignored by policymakers who mistakenly see activism as only a short-term thing.

Mr. President, I have given conditional support for the provision of funds for the Nicaragua covert action program, despite my misgivings. Because I see good reasons to keep some pressure on the Government of Nicaragua to change its policies, I voted with the executive branch to defeat four amendments on Nicaragua last week, as well as one on Honduras and eight on El Salvador. But it makes no sense to support a self-defeating tactic, and that is what the mining of Nicaraguan harbors has become.

Our unseemly flight from World Court jurisdiction is just one sign, but perhaps the most telling sign, that the mining tactic is a colossal loser. We all know that other countries break international norms. Nicaragua's indifference to the norm of leaving one's neighbors alone is the reason that we began this covert action in the first place. But international law exists to put limits on our behavior, even when we are in conflict with others, in order to preserve certain standards that benefit us all.

And we, Mr. President, are the ones who almost always benefit from international law. The World Court is not a pack of guerrillas, or even a conclave of liberation theologians. It is the guardian of international standards and tradition. It stands, very largely, for what we believe in. So when the United States runs away from the court, we run away from those who would hold us to our own standards of conduct.

Such policy is foolishness, Mr. President, short-sighted foolishness. It gives the appearance of arrogance, even though I suspect that it is much more the product of haste and desperation. And the great pity is that it is unnecessary, a feckless aberration to shore up an unwise tactic that serves a policy that—ironically—is still worth saving.

What shall we do in such a situation? What shall we save, and how?

First, Mr. President, let us clearly state that this is not the fault of the CIA. The Central Intelligence Agency has been the faithful servant of our

policymakers. The CIA has implemented its covert action very carefully, with due attention to the Boland amendment even before it was passed. They may make mistakes from time to time; they may have yet to learn how to keep the Intelligence Committee up to date on what is happening. But the CIA is not responsible for policymakers who will not coordinate covert action with other elements of policy. The CIA is not the agency that is supposed to seize the opportunities that overt or covert actions provide, to seek a resolution of conflict. If we can bring about a more rational policy, the CIA will serve that policy as well.

Second, Mr. President, and here I speak to my colleagues who join me in concern over the mining issue, let us not jettison a whole policy just because one aspect is ill-conceived. If we end the mining—and I think that we would be well advised to do just that—there will still be extremely troubling arms flows into Nicaragua and El Salvador. If we end the covert action—and I think it would be wrong to do that at this time—there will still be Sandinista interference in its neighbors' affairs, while Nicaragua will still lack the freedoms that the Sandinistas promised nearly 5 years ago.

Let us tell the executive branch that Congress would end this self-defeating tactic of mining harbors, especially when the mines affect our friends as much as our foes, threatening civilian cargoes as much as military ones. Let us tell the executive branch that Congress would not run from World Court jurisdiction, like some criminal jumping bail. Let us encourage the executive branch, instead, to make the best case we can in both the World Court and the court of world opinion, for there is quite a case to be made that Nicaragua's support for guerrillas and terrorists warrants countermeasures.

Finally, Mr. President, let us call upon the President and the executive branch—loudly, if necessary—to get our Central America policy in order. Let us call for a true coordination of means and objectives, for a policy that will recognize the need for flexibility in implementation and will not merely push forward, willy-nilly, when the possible adverse consequences of our facts are so great. This President has shown great sophistication on so many issues, from social security to working out budget compromises, that I am sure he can bring that same skill to our Central America policy. I truly look forward to that great day.

Mr. MITCHELL. Mr. President, the simple and plainly visible truth about our covert assistance to the Nicaraguan Contras is that the chief use to which it is being put—an attempt to overthrow the Government of Nicaragua—violates U.S. and international law. That is a clear and undisputable fact, evident to anyone who looks at the record.

What the Reagan administration is doing in Nicaragua is discrediting the

United States in the eyes of all those who we ask to believe in respect for the law.

It is undermining our efforts to call the attention of the world and of our own people to the fact of international terrorism, and to condemn and combat it.

In short, our covert assistance to the Contras is destroying our credibility. It is not difficult to see why.

This program, as it is being operated, violates article 2(4) of the Charter of the United Nations, a multilateral treaty ratified by the Senate. This treaty prohibits the threat or use of force against the territorial integrity or independence of any state.

It also violates article 15 of the Charter of the Organization of American States, of which we and Nicaragua are members. That treaty was also ratified by this body. Article 15 bans direct or indirect intervention in the internal affairs of any member state.

As established by our Constitution, all treaties made under the authority of the United States are the law of our land. A violation of such a treaty—such as the U.N. and OAS charters—is a violation of U.S. law. Our Government has violated both of those treaties and has broken our own law.

Moreover, in 1982 Congress enacted a law prohibiting the use of funds by the Central Intelligence Agency or the Department of Defense "to furnish military equipment, military training, or advice, or other support for military activities to any group or individual not part of a country's armed forces, for the purpose of overthrowing the Government of Nicaragua or provoking a military exchange between Nicaragua and Honduras."

That is the law of this country. Yet we are providing arms and money, training and guidance to the Nicaraguan Contras whose publicly professed goal is to overthrow the Government of Nicaragua.

In the past few weeks President Reagan has made such ambiguous and conflicting statements on our objectives in Nicaragua that the majority leader last week was impelled, under the obvious pressure of then-pending votes on this matter, to get the President's views in writing.

Despite this last-minute attempt at clarification, what is and remains clear is that the administration's actions in Nicaragua violate American law.

The direct participation of the CIA in mining several harbors of Nicaragua, publicly disclosed late last week, aggravates the situation and makes the U.S. action even more plainly illegal. Mining a harbor is an act of war and a violation of international law.

Let us not forget that Iran, in recent months, has threatened to shut off the Persian Gulf by mining the Straits of Hormuz and its approaches. Repeatedly, President Reagan has expressed his view that such action by Iran involving these international waters would violate international law and

could be considered an act of war. Moreover, the President has emphasized that he would not rule out the use of U.S. military force to respond to such an eventuality.

How can the United States have this policy with respect to Iran's threats while we act in a similar way by mining Nicaragua's waters?

To make an already bad situation even worse, the administration now says that it will ignore the World Court's jurisdiction over matters referred to it involving U.S. actions in the region.

Although it may be technically legal for the United States not to accept World Court jurisdiction in matters involving Central America, such an action—taken in response to information that Nicaragua is about to bring charges against the United States—makes a mockery of the rule of law.

However, there is a constraint against the administration's action regarding World Court jurisdiction, a constraint it has violated. In August 1946, the United States accepted compulsory jurisdiction of the Court. In a report to the 79th Congress, the Senate Committee on Foreign Relations unanimously said:

The resolution provides that the declaration should remain in force for a period of five years and thereafter until six months following notice of termination. The declaration might, therefore, remain in force indefinitely.

The report then continued—and this is the key sentence:

The provision for six months' notice of termination after the five-year period has the effect of a renunciation of any intention to withdraw our obligation in the face of a threatened legal proceeding.

It is clear from this report that in accepting the World Court's jurisdiction, we relinquished any right to withdraw our acceptance as a result of the bringing of a particular legal proceeding against us—as Nicaragua said it will do on the harbor mining issue. The administration's announced intention where the Court is concerned thus directly disregards and transgresses a fundamental commitment embodied in the Senate's ratification resolution and in our acceptance of the Court's authority.

All of this amounts to cynicism beyond any we have seen to date by our Government in its actions and statements in Central America.

What are we to make of this flouting of law, of the intent of the Congress, of the will of the people of this country, and of common sense?

What are we to believe when our Government, stung by the death of hundreds of U.S. marines in the Middle East at the hands of terrorists, nonetheless continues its support of terrorists engaged in killing, in industrial and economic sabotage, and in the mining of the ports in Nicaragua? Have we become a nation to whom the ends justify any and all means?

Mr. President, there are many who, faced with the facts and with the contradictions between the words and the deeds of our Government in Central America, are now coming forward to question, to criticize and to doubt. I call on them to demonstrate that there is no disparity between their own words and deeds. The answer to the questions I have asked here today, in other words, lies in a vote to support their amendment to stop the unwise, unnecessary, and illegal mining of Nicaraguan ports.

Mr. DENTON. Mr. President, I fully understand the concern that many of my colleagues have about the issue that has been raised by the Senator from Massachusetts. At the same time, however, I am grievously disturbed by the tendency of many of my colleagues to rush to judgment on this issue, as on many other contentious issues of foreign and defense policy. One thing that life teaches, both personal life and public life, is that decisions made hastily and in heat are bad decisions more often than not.

I have spoken on this floor on many occasions about the evils that ensue when we try to conduct our foreign policy with 535 Secretaries of State, when one is sufficient to the challenge. It is all the more the case because that one is probably better informed and advised about the details of our foreign relations than are all the 535 others taken together.

We forget, in our debates in this body, that we derive our position from a constitutional system that has served our country well for nearly 200 years. It is a system that gives the Senate of the United States a particular position of power, Mr. President, but also one of responsibility, Mr. President, of responsibility.

The Senate has power and responsibility to oversee the conduct of foreign affairs, to provide advice and consent, but the Constitution confers upon the President the authority and the responsibility to conduct the foreign relations of our country. Indeed it mandates that he do so. We in the Senate tread upon dangerous, dangerous ground when we interfere with the authority and the responsibility of the President. When we decide to do, and it should be rarely, it should be coolly, after careful study, consideration, and examination of all the information that we can obtain.

The amendment before us has none of the hallmarks of such a process. It can do nothing other than to serve as an outlet for emotion and to send a message. Unfortunately, it would send a message to the wrong people.

I hope that we have the good sense, Mr. President, to realize that the message will be conveyed primarily to those who seek to exploit our division and our distress, that it will cheer our enemies and dishearten our friends, that it will confuse and dismay the American people, that it will promote no good but that it will precipitate

great harm. For that reason alone, although there are other reasons, we should defeat it.

Mr. President, I understand the seriousness of the issue. I am willing, if that is the will of the body, to engage in factfinding, in analysis, in debate, and in legislation about our policy in Central America. If we are to do that, however, let us do it properly, guided not by our emotions or by the partisan attractions of an election year but by our responsibilities as Senators and as elected leaders of our country. I urge my colleagues on both sides of the aisle, colleagues whom I know are thoughtful, serious, and responsible Senators, to lay aside the temptation to vent emotion, and to defeat the amendment before us.

Thank you, Mr. President.

Mr. LEVIN. Mr. President, I am deeply worried about our country's actions and policies regarding Nicaragua. The reports that we are responsible for the mining of Nicaraguan harbors and territorial waters cause me deep concern. These actions are shortsighted and ultimately self-defeating.

We have responsibilities in Central America. We have a responsibility to help those countries that desire and request our help. We have a responsibility to aid El Salvador to achieve stability and conduct meaningful free elections. But, our reported actions toward Nicaragua are not a fulfillment of our responsibility, but rather an abrogation of that responsibility.

Our responsibility as a nation and as a member of the world community is to adhere to the rule of law. Participating in the mining of the waters of a nation with which we are not at war is not adhering to the rule of law.

Our Nation can no longer hide behind the fiction that we are simply funding people who may have a different ultimate goal than we do. We can no longer hide behind the fiction that we are not actively responsible for actions that are judged by many to be an act tantamount to war.

Our responsibility is to meet the legitimate needs of our friends in the region. Mining the harbors and territorial waters of a nation with which we have full diplomatic relations is not the legitimate way to do it. Indeed, it is ultimately counterproductive.

Such actions confirm the worst fears of our friends in the region and in the rest of the world. Not only do they violate our best traditions and aspirations, they ignore history.

This heavy-handed behavior will not help us achieve our goal of a stable region free of Soviet influence. It will only gradually reduce our own influence. We should step up to our responsibility and adopt this amendment.

UNDERMINING UNITED STATES-LATIN AMERICAN FRIENDSHIP

● Mr. MELCHER. Mr. President, the failure of the United States to notify Mexico, Venezuela, Colombia, and other Central and South American countries that we were providing the

mines and assisting in laying them in Nicaraguan harbors will especially hurt our relations with our friends and trading partners of this hemisphere. There should be a special responsibility to them stemming from the Monroe Doctrine, the Rio Treaty, and the Organization of American States. This action of participating in mining harbors in a country where their ships might be damaged is another blow to common neighborliness that has brought U.S. policies toward Latin American countries in ill repute as a callous disregard of their vital interests.

The stated policy of the Contadora groups—Mexico, Venezuela, Colombia, and Panama—has been to dissuade the United States from military action in Central America. Other Latin American countries have quietly expressed similar views. This comes at a time when most Latin American countries are hard pressed economically and are attempting to work out conditions for loans through the International Monetary Fund and private banks, many of which are American. It takes courage for them to voice objections to administration policies.

To have ships from their country damaged by the mines the United States made and assisted in laying in Nicaraguan harbors is adding insult to injury. This is a serious act of war. In my judgement it is wrong.

Not to notify friends and allies is a serious blunder admitted even by many who approve the action.

Whatever else can be said—and there is a great deal more that will be said—the sum and substance of the blunder is that the administration cannot defend its action. Unless the President wants to ask for a declaration of war, the best thing he can do now is to order the CIA to hire the removal of each and everyone of the mines.

The President can give the order to the CIA overtly or covertly. The friends we have in this hemisphere will be relieved.●

ORDER OF BUSINESS

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, the minority leader needs time to conduct his clearing process. In order to do that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President—

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. Mr. President, our people have been contacted. We find no objection.

MEMORANDUM FOR:

Senate floor debate on Senate
version of Boland Amendment

- 1st part deals with Dodd's Amendment
- 2nd part deals with Monaghan's version
- Helms proposes tabling; vote taken
which tables.
- w/ Senate version, Conference agrees
on final "Boland Amendment" language.

Date

FORM 101 USE PREVIOUS
5-75 EDITIONS

~~Betty~~ — Joyce —
suggest keeping
this. Bill

The Army, as a matter of policy, does wish to inform you that in 1983 it will consider for conversion only vacant positions or those technicians who volunteer for conversion, and will not eliminate any technician position as long as an incumbent chooses to remain in the technician program.

The Secretary of the Air Force.

... our proposal is not forcing any involuntary conversions to full-time active duty. Thus, we have minimized personnel turbulence that might otherwise result.

In summary, Mr. President, the 1,200 conversions scheduled for fiscal year 1983 could save the Army Guard and the Air Guard 2 percent and 3 percent respectively, and only vacant positions and voluntary conversions will be changed to full-time military status.

I ask unanimous consent that the various documents to which reference has been made be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[The material referred to will appear in a subsequent issue of the RECORD.]

Mr. MELCHER. Mr. President, I want to express my concern over the proposal of Senator THURMOND's amendment providing for the conversion of 600 Air National Guard and 600 Army National Guard technicians to full-time military positions. The proposal has been considered by the Appropriations Committee and found to be flawed and they rejected it.

The Defense Appropriations Subcommittee opposed the continued conversion of civilian technicians to full-time military positions. In its report on the defense appropriations bill, the committee said:

The cost effectiveness of any additional conversions ... is questionable in light of the increased pay and allowances military members now receive. Accordingly, the Committee directs the Department to make no further conversions. ...

The committee also directed the Department of Defense to increase civilian manpower ceilings in the Army and Air Force to fill these positions.

I have heard the arguments by the proponents of converting civilian technician positions to military slots. They say that it improves the Guard's capabilities and makes the Guard units more combat ready. That may be true, but is it worth the additional money it costs. The Defense Appropriations Subcommittee says no, and I agree with them.

I personally know many of the civilian technicians who work for the Air National Guard at Great Falls, Mont., during the week and serve in their allotted weekend duties in the Air National Guard. The same is true of civilian technicians for the Army. They are committed and capable people and they serve us well. There is no need that these positions be filled by full-time military personnel.

When I was first appraised of this situation, I was told that the civilian positions had been eliminated by the

Appropriations Committee and therefore it would be necessary to create an equal number of full-time military slots to keep the Guard's manpower up to strength. However, that is not the case. The Appropriations Committee directed the Defense Department to raise the civilian manpower ceilings to make sure that we had sufficient numbers of civilian technicians available for the Guard's mission.

The amendment seeks to convert civilian technician positions to full-time military positions. I do not agree that this is a wise policy, and it is likely that the final decision of the conference committee considering the final report will also reject amendment.

CONVERSION OF NATIONAL GUARD TECHNICIANS TO FULL-TIME MILITARY POSITIONS

Mr. EXON. Mr. President, I rise in support of the amendment offered by my colleague, the senior Senator from South Carolina.

As we come to rely more and more on our National Guard and Reserve Forces, it is imperative that we enhance the readiness and deployability of our Guard units. One way to accomplish this goal is to allow the limited conversion of certain civilian technicians to full-time military positions.

I believe that we must maintain the citizen-soldier concept of our National Guard, Mr. President. If I thought that support of this amendment would, in any way, endanger that concept I would not be here today.

The plain and simple fact is that our Army National Guard provides approximately 30 percent of the combat divisions in our overall total Army Force; 70 percent of the separate brigades; 30 percent of our special forces groups; 40 percent of our armor battalions; and 60 percent of our field artillery battalions.

Our Air National Guard provides over 60 percent of our continental air defense; about 20 percent of our tactical fighters; roughly 20 percent of our aerial refueling; over 30 percent of U.S. tactical airlift; and over 40 percent of the tactical reconnaissance in our total Air Force.

Mr. President, we are today relying on our Army and Air National Guard as never before. These forces must be ready to go to war on a moment's notice. It is our job here in the Congress to insure that they have the resources—human as well as equipment—to get the job done. The full-time manning program is one of those resources which the Guard needs.

I urge the adoption of the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield back the remainder of my time.

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1540) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, the next order would be for the Senator from Connecticut (Mr. DODD).

Mr. PROXMIRE. Mr. President, he is on his way to the Chamber. He should be here any moment.

Mr. HATFIELD. Mr. President, I yield to the Senator from Connecticut for his amendment.

Mr. President, I only want to say, first, that all Senators who have amendments should be on the floor because otherwise we are going to just drop the Senator to the bottom of the list and he will have to wait. We cannot just wait around for Senators to drift in. If any Senator has an amendment which has a unanimous consent agreement, he should be on the floor ready to take it up any moment because some Senators are withdrawing their amendments or planning to withdraw their amendments, and that means we drop down to the next slot.

We are going to push this bill through, and I am going to ask for third reading if we have no amendments.

UP AMENDMENT NO. 1541

Purpose: To declare congressional support for restrictions on certain types of operations in Central America.)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. DODD) proposes an unprinted amendment numbered 1541.

To the end of H.J. Res. 631, add a new section as follows:

"Sec. . . Congress hereby declares that no funds should be obligated or expended, directly or indirectly, after January 20, 1983, in support of irregular military forces or paramilitary groups operating in Central America."

Mr. DODD. Mr. President, I think this amendment speaks for itself for those who heard it read. Basically, it amounts to a policy declaration by the body that no funds should be expended directly or indirectly in support of paramilitary activities operating in Central America.

I should say at the outset, Mr. President, that I offer this amendment with a degree of reluctance. I wish there was a more proper vehicle which would enable us to conduct a longer and more detailed debate about what I consider to be a very important matter.

Mr. President, I would prefer that we were offering this at another time when we had more than 30 minutes to debate. It is what I consider to be one

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of the most pressing and threatening foreign policy issues that this country faces.

Mr. President, I offer this amendment not because I am in any way interested in supporting, defending, or apologizing for Sandinistas in the Government of Nicaragua or the Government of Honduras, but because of my deep concern of what I believe our country is about to enmesh itself into unwittingly. It is sort of a *deja vu* of 20-odd years ago when we began a similar set of activities without the kind of public, open debate about a set of activities which eventually threw us into a larger conflict.

Had we then, at the outset, had a better opportunity to debate the rationale for our original decisions, we might have dealt with the larger issues we confronted later more intelligently.

I happen to believe, Mr. President, that we are presently involved, or could be involved, in a far more expanded conflict in Central America than already exists. We are all too well aware of the problems in El Salvador and Guatemala, and we certainly are aware of the potential threats that are posed by the Government of Nicaragua.

One of the reasons that we run the risk for an expanded conflict in Central America is because we may be supporting paramilitary groups in Central America which are determined in their way, whether or not we are, to overthrow the Government of Nicaragua.

I believe that that kind of activity is going to lead exactly to that result. There will be a substitute amendment offered to this amendment which I have offered this morning. The substitute amendment will say that none of the funds in this particular continuing resolution can be expended for the overthrow of the Nicaraguan government. That amendment was offered in the other body as a substitute to an amendment not dissimilar from the one that I am offering. There are some major distinctions between those two propositions.

One is that the continuing resolution, while it contains funds or does potentially contain funds—we do not know the exact amount—to support paramilitary, covert activities, does not include all funds we have authorized for those activities. What I am suggesting is that, by putting a prohibition on these particular funds, we do not deal with all funds that could be used for those activities.

Second, the amendment that will be offered is limited to the overthrow of the Nicaraguan Government and to support a conflict between Honduras and Nicaragua. That is the House language, and I assume that that will be the same language offered this morning. I suggest that there are any number of ways of circumventing that prohibition. In effect, it is going to provide a green light for the continued activity that we have seen reported, over and over again, in the last several

weeks and months, suggesting that we are already deeply involved in a broader conflict in Central America.

Third, the extent of the substitute that will be offered as a substitute to my amendment is extremely restrictive. It says that none of the funds, notwithstanding any other provision of law, shall be expended for that particular purpose I have just identified.

My amendment is more open ended, more of a declaration of policy. It is a policy statement. It allows for greater flexibility in that sense than what will be offered by the substitute to this amendment.

For those three reasons, Mr. President, I believe that the approach I am suggesting this morning gives us greater flexibility, is not as binding as what will be offered, yet makes the clear policy declaration that we have to stop this activity before it expands even further and we find ourselves once again unwittingly drawn into a conflict far larger than what we already have in Central America.

I do not think there is anybody in this Chamber who has read a newspaper or magazine for the last month or so who does not believe that there are groups operating on the Honduran border that have as their purpose the overthrow of the Nicaraguan Government. I do not think anybody doubts that. There are the old Guardia troops, Somoza troops, operating on that border. What we are proposing to do is cut off our paramilitary support for them.

There will be arguments that we do not intend to overthrow the Nicaraguan Government. I do not think that avoids the responsibility that we are supporting those who are. That is what I believe we are doing and that is what my amendment is designed to curtail.

Mr. President, my amendment addresses the issue of covert support for military operations in Central America, and it addresses this issue with a clear-cut congressional policy declaration a declaration which puts Congress on record in opposition to support for irregular military forces or paramilitary groups operating in Central America.

Mr. President, going back to March of this year, there has been a growing number of authoritative press accounts which leave little doubt that the present administration is providing support, in one fashion or another, to paramilitary groups and irregular military forces operating in Central America.

On March 10, for example, the Washington Post reported that President Reagan had authorized the Central Intelligence Agency "to build and fund a paramilitary force of up to 500 Latin Americans, who are to operate out of commando camps along the Nicaraguan-Honduran border." Similarly, and more recently, Newsweek in its cover story of November 8, claimed that in December of last year, the

Reagan administration approved a \$20 million CIA plan to create a 500-man paramilitary force based in Honduras to cut off Nicaraguan supplies to Salvadoran leftists. In further describing this program Newsweek added, "The plan's unofficial goal: To undermine or overthrow the Sandinistas."

Shortly after the appearance of the Newsweek article, the New York Times said it had confirmation of the basic outline of the program from senior administration officials who, at the same time, disclaimed any administration intention of bringing down the Managua-based government. The Time article began this way: "The United States is supporting small-scale clandestine military operations against Nicaragua intended to harass but not to overthrow the Nicaraguan Government, senior administration officials said today." In providing additional details, the Times article went on to say:

A senior national security official insisted that the scope of clandestine operations was limited to hit-and-run raids into Nicaragua by small paramilitary units based in Honduras, skirmishes with Nicaraguan troops along the Honduran border, and financial support for political opponents of the Sandinist government.

The official said that no Americans were directly involved in the paramilitary operations, but acknowledged that the CIA was providing money and military equipment to the units. He added that Americans were also helping to train anti-Sandinist forces, which are made up primarily of Nicaraguan refugees.

In keeping its readers informed and up to date, Time magazine reported earlier this month:

A U.S. intelligence source in Honduras estimates that there are not about 200 CIA personnel in Honduras, four times as many as previously reported. Biweekly flights from Panama bring in rifles, machine guns, mortars, and grenade launchers. The Contras themselves have grown in number from about 500 in 1980 to as many as 4,500 now.

Mr. President, I ask unanimous consent that various articles and editorials on this subject be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Washington Post, Mar. 10, 1982]

U.S. APPROVES COVERT PLAN IN NICARAGUA

(By Patrick E. Tyler and Bob Woodward)

President Reagan has authorized covert operations against the Central American nation of Nicaragua, which, administration officials have charged, is serving as the military command center and supply line to guerrillas in El Salvador.

According to informed administration officials, the president has ruled out the use of U.S. military forces in direct anti-Nicaraguan operations. But the authorized covert plan directs the CIA to begin to build and fund a paramilitary force of up to 500 Latin Americans, who are to operate out of commando camps spread along the Nicaraguan-Honduran border.

The officials stressed that it will take months for the paramilitary force to be recruited, trained and positioned to begin op-

erations. They did not say precisely when the cross-border operations are scheduled to begin.

As part of this plan, the commandos eventually would attempt to destroy vital Nicaraguan targets, such as power plants and bridges, in an effort to disrupt the economy and divert the attention and the resources of the government. CIA strategists believe these covert operations inside Nicaragua will slow the flow of arms to El Salvador and disrupt what they claim is a Soviet- and Cuban-controlled government in Nicaragua.

Operating under a \$19 million CIA budget, the planned 500-man force could be increased in size if necessary, officials said. The CIA force would be supplemented by another Latin American commando force of up to 1,000 men—some of whom currently are undergoing training by Argentine military officials.

This is the plan for CIA covert operations first reported in *The Washington Post* on Feb. 14 as part of the Reagan administration's strategy in the region. At the time, it could not be determined whether the president had authorized the CIA's plan to build a paramilitary force against Nicaragua.

Several informed sources now say that the president did formally authorize the proposal, but the precise timing of his authorization could not be determined. It may have occurred late last year.

The covert action proposal was developed by the CIA and first presented in detail to President Reagan by CIA Director William J. Casey at the Nov. 16 meeting of the National Security Council. It was supported by Secretary of State Alexander M. Haig Jr. and Defense Secretary Casper W. Weinberger, according to knowledgeable officials.

Administration officials familiar with the CIA covert program stressed that the decision to focus on economic targets was based on a desire to disrupt the Nicaraguan arms supply line to El Salvador in a manner that is relatively inexpensive and least threatening to the civilian population.

"If you blow up a dam, you cause a lot of trouble, but you're not killing people," one high-level official said.

In his Feb. 18 press conference, Reagan was asked if the United States was planning covert operations in Nicaragua, but he declined to comment.

Nicaragua currently is ruled by the Sandinista National Liberation Front, whose guerrilla forces overthrew the government of dictator Anastasio Somoza in July 1979.

Honduras has a close military relationship with the United States, and Honduran officials fear that the political upheaval in El Salvador and Nicaragua will spill into their country. As a separate part of the U.S. strategy in the region, the U.S. military currently is engaged in two operations in neighboring Honduras to indirectly support anti-Nicaraguan efforts, informed administration officials said.

According to highly classified NSC records, the initial CIA proposal in November called for "support and conduct of political and paramilitary operations against the Cuban presence and Cuban-Sandinista support structure in Nicaragua and elsewhere in Central America." The CIA, in seeking presidential authorization for the \$19 million paramilitary force, emphasized that "the program should not be confined to that funding level or to the 500-man force described," the records show.

Covert operations under the CIA proposal, according to the NSC records, are intended to:

"Build popular support in Central America and Nicaragua for an opposition front that would be nationalistic, anti-Cuban and anti-Somoza.

"Support the opposition front through formation and training of action teams to collect intelligence and engage in paramilitary and political operations in Nicaragua and elsewhere.

"Work primarily through non-Americans" to achieve these covert objectives, but in some cases the CIA might "take unilateral paramilitary action—possibly using U.S. personnel—against special Cuban targets."

After the initial presentation, the CIA proposal was turned over to the national security planning group, a subcommittee of the NSC, as a draft "presidential finding," which states the need for specific covert operations. Under national security statutes, no funds can be expended for covert actions "until the president finds that each such operation is important to the national security of the United States."

Senior U.S. defense and intelligence officials have said in recent weeks that without a slowdown in the arms supply to El Salvador by air, land and sea routes from Nicaragua, the position of government forces in the war-torn country could deteriorate rapidly, potentially prompting an escalation of Salvadoran requests for U.S. military assistance. Such requests are likely to run into strong congressional and public resistance.

According to administration officials, the covert plan is part of a broader program through which the administration hopes to achieve long-term stability in Central America by creating, nurturing and supporting new political coalitions of centrist forces in Nicaragua and other key countries.

Central America currently is experiencing a series of armed rebellions, and officials here say U.S. intelligence has obtained detailed outlines of Soviet and Cuban long-term financial, military and political plans to support armed insurgencies in the region. This outline of Soviet intentions—along with intelligence of current Soviet and Cuban activity in the area—has alarmed the president's national security advisers and, according to officials, is a central reason for the administration's covert program.

Several senior officials argue that intelligence gathering efforts in Central America lapsed significantly under presidents Nixon, Ford and Carter and that each of those administrations underestimated the problems of Central American governments and the strength of opposition movements.

The CIA station in El Salvador, for example, was closed for about five years—roughly from 1973 to 1978—to save money, and the United States had virtually no intelligence sources there during that period.

"It takes a long time to develop this intelligence, spread money around and put people in crucial places and make the kind of friends we need," one official said last week.

Only in the past year, officials said, has the United States learned details of what the Soviets and Cubans hope to gain in the region. U.S. intelligence reports now show that in 1978 the Soviets and Cubans committed the money and resources for a major effort to support Cuban-style rebellions in Central America.

One senior official said, "If you look what the goals were in 1978 and realize how far they have come by 1982, then where they want to be in 1987 has to be taken seriously and that would concern anyone" in the United States.

Other officials said they are alarmed by convincing intelligence reports that one Soviet-Cuban goal in the region is the development of an active insurgency to destabilize Mexico during this decade.

Some intelligence reports reaching the president support the administration charge of an increased Soviet and Cuban threat in

Central America. One recent report indicates that the Soviet Union is training Latin American pilots to fly the most advanced Soviet fighter, the Mig 25 Foxbat, which has a radar system capable of directing other planes in a large battle area.

The nationalities of the Latin American pilots being trained on the Foxbat are unclear. Cuba already has acquired a squadron of Mig 23 supersonic fighters, and previous intelligence reports have confirmed that Nicaraguans have trained on less sophisticated Mig fighters.

Further, Guatemala, potentially the most prosperous Central American country, also being threatened by a leftist insurgency and the most current CIA estimate is that the government will undergo a major change of status within 18 months.

While some members of the administration remain skeptical about broad claims spreading Soviet and Cuban influence in the region, knowledgeable officials say this is the interpretation that has been largely adopted by President Reagan.

[From *Newsweek*, Nov. 8, 1982]

A SECRET WAR FOR NICARAGUA

The smoky bar in Tegucigalpa was a cousin to Rick's Café in "Casablanca," a nightly gathering place for the dangerous and the desperate in Honduras. Squeezed into a corner one evening last week were four Argentine military advisers, speaking machine-gun Spanish and occasionally stealing furtive glances around the room. Half-dozen Americans stood in a loose line at the bar, drinking beer and talking loudly about guns. In the center of the room, grouped around a table that listed right, were seven men drinking rum. One of them wore a gold earring. He explained to the seven men were Nicaraguan exiles who belonged to various factions of the contra band of counterrevolutionaries trying to topple the leftist Sandinista regime. They were ready to move toward Managua, one of the men said. "We just need to hear from The Boss that it's time to go." Who was The Boss? The man with the earring was impatient with stupid questions. "He's the man you call 'Mr. Ambassador'."

The envoy in question was John D. Negroponte, the American ambassador in Honduras. Official sources told *Newsweek* last week that Negroponte is overseeing an ambitious covert campaign to arm, train and direct Nicaraguan exiles to intercept the flow of arms to leftist guerrillas in El Salvador. But the operation has another objective: to harass and undermine the Cuban-backed government of Nicaragua. The subject traces back to Jimmy Carter's effort to support Nicaraguan moderates. Ronald Reagan added the task of cutting the Cuban-Nicaraguan arms pipeline to El Salvador. The plot, launched mostly with guns and machismo, now threatens instead to destabilize Honduras, to fortify Marxists in Nicaragua and to waste prestige along the tangled banks of the Coco River. Worse, U.S. officials contend there is a danger that the operation will provoke a Nicaraguan counterattack on Honduras that could drag the United States directly into the conflict. "This is the fiasco of this administration," says one official. "This is our Bay of Pigs."

Reports of secret operations along the Nicaraguan-Honduran border have circulated for months. But *Newsweek* has uncovered extensive details of a campaign that has calculated far beyond Washington's original intentions. Administration sources told *Newsweek* that there are now almost 50 CIA personnel serving in Honduras—certainly

longest manifest in Central America. That team is supplemented by dozens of operatives including a number of retired military and intelligence officers. Argentine military advisers are supporting the operation in Honduras; separate anti-Sandinista activities are underway in Mexico and Venezuela.

Camps: The fighting forces are drawn from 2,000 Miskito Indians, an estimated 10,000 anti-Sandinistas in Nicaragua itself and an assorted group of former Nicaraguan National Guardsmen and supporters of deposed dictator Anastasio Somoza. They have set up 10 training camps divided between Honduran and Nicaraguan territory. Their hit-and-run forays against Nicaraguan bridges, construction sites and patrols are designed to harass the Sandinistas while CIA operatives cast around for a moderate new Nicaraguan leadership. Among others, the United States tried to cultivate Edén Pastora—the former Sandinista hero known as Commander Zero—after he resigned from the government in July 1981. That effort failed. "Pastora is a man who would not accept a penny from the CIA," swears one associate. "If he did, I would kill him."

The operation posed some very disturbing questions: did it violate the spirit if not the letter of congressional restrictions on dirty tricks—and would it only make a bad situation in Central America even worse? A congressional-committee spokesman said that CIA Director William Casey (who personally inspected the operation in Honduras) has adequately briefed congressional oversight committees. But some congressional sources complained that the CIA's briefings had been bland and disingenuous. And others wondered pointedly whether the administration had used approval for plans to cut off the flow of Cuban arms to rebels in El Salvador as a cover for a more reckless plot to topple the Sandinistas. "This operation's just about out of control and people are getting panicky," said one source. According to one U.S. official, Secretary of State George Shultz was "fuming" over the mess. Said another, "Only Shultz can change it—if there is still time."

Moderates: Washington's covert involvement in Nicaragua began even before Somoza fled the country. In 1978, with the dynasty nearing collapse, Jimmy Carter signed a "finding," as required by post-Watergate law, authorizing under-the-table CIA support for democratic elements in Nicaraguan society, such as the press and labor unions. The Carter administration correctly recognized that with the Somoza regime crumbling, Cuban-backed leftist forces would try to squeeze out more moderate elements. American financial support for Nicaragua's opposition forces has continued, and it remains one of the many items on the CIA's yearly "Classified Schedule of Authorizations."

After the Sandinistas seized power anyway, the Reagan administration took office worried that Nicaragua would become a platform for Cuban-sponsored subversion. Ronald Reagan's first national-security adviser, Richard Allen, set to work on plans to harass the Sandinistas. Former Secretary of State Alexander Haig and Thomas O. Enders, assistant secretary of state, became increasingly concerned that the Sandinistas were providing weapons to leftist rebels in El Salvador—much of the hardware shipped across Honduras. In several meetings, a well-placed administration source says, Enders spoke about the need to "get rid of the Sandinistas." "The driving forces behind this operation were Haig and Enders," said one insider. "Both the agency and the Pentagon had qualms."

Joint action: At first, the administration's planning focused entirely on how to cut the

Salvadoran rebels' supply lines from Cuba and other communist nations through Nicaragua and Honduras into El Salvador. Haig directed then State Department counselor Robert McFarlane to prepare a series of option papers. Senior Defense Department officials rejected a blockade of Cuba or Nicaragua, pointing out that much of the arms traffic moved by air. Administration officials say McFarlane then asked the CIA to explore possible covert action against the rebels' supply lines, an option that proved more promising and less politically risky than the direct use of U.S. forces. Early on, Haig's ambassador at large, Gen. Vernon Walters, and other officials discussed possible joint covert operations with conservative Latin American governments, including Argentina, Guatemala and Honduras.

Last December Reagan signed his own "finding," expanding on Carter's and authorizing the CIA to contact dissident Nicaraguans in exile and to conduct political and paramilitary operations to interdict weapons shipments from Nicaragua to Salvadoran guerrillas. A second document, known as a "scope paper," outlined permissible operations and their estimated cost. In its first stage, the plan was to create a 500-man, U.S.-trained paramilitary force at a cost of \$19.9 million. Argentina would train an additional 1,000-man force. "The focus was on action which would interdict the flow of arms to guerrillas in the friendly countries," said one source who has read both documents. "Nowhere does it talk about overthrow." But one senior official involved in the decisions conceded that "there are secondary and tertiary consequences which you can't control"—such as the fall of the Sandinista government.

As U.S. officials tell it, the size of the CIA station in Honduras doubled, bringing it to about 50, with orders to help interdict the arms supplies by training the Honduran intelligence and security forces in intelligence gathering and interrogation, providing logistical support for raids into Nicaragua, aiding the Honduran coast guard and helping the Argentines and other non-Nicaraguans train anti-Sandinista Nicaraguans in sabotage operations using small arms supplied by the Americans.

Washington had used Honduras once before as a base for a destabilization program: in 1954, when the United States toppled the reformist government of Jacobo Arbens in Guatemala. In the view of the Reagan administration, Honduras itself had become dangerously vulnerable to the Cuban-backed spread of communism. Honduras had managed to remain relatively calm and largely unaffected after the 1979 Nicaraguan revolution by simply looking the other way as Cuban-Nicaraguan arms passed through to El Salvador. "There was kind of an understanding that if we looked the other way, the subversives wouldn't look our way," said one Honduran Army officer.

Spearhead: That changed when John Negroponte arrived. He was handpicked for the job and reported to Enders, with whom he had worked in Southeast Asia during the Vietnam War and later under then national security adviser Henry Kissinger. "Negroponte is the spearhead," said one Washington insider. "He was sent down there by Haig and Enders to carry out the operation without any qualms of conscience."

Negroponte forged close ties with powerful Hondurans, especially the commander of the armed forces, Gen. Gustavo Alvarez, who is still the most powerful Honduran in the country despite the election in January of President Roberto Suazo Córdoba, the first civilian president in nine years. "They discuss what should be done, and

then Alvarez does what Negroponte tells him to," a member of the military high command said matter-of-factly. The two appear to dislike each other personally, so one aide to Alvarez, because "they both run the Army, although only one of them holds the title for that job." Alvarez's G-2 military-intelligence agents act as liaisons to the contras and Alvarez himself reports to Negroponte. In addition, two officials in Washington said, Alvarez's military is the main conduit for small arms being delivered to the Nicaraguan exiles and is the main link to Argentine military advisers in Honduras. Alvarez has reason to cooperate: in the past two years, total U.S. assistance to Honduras has totaled \$187 million. A \$78.3 million package has been proposed for 1983.

The interdiction project proved more difficult than expected. The rebel supply lines were elusive: as the Honduran Army cracked down on arms shipments across land, the leftists began receiving aid by sea and air. At the same time, the Sandinistas undertook a massive military buildup. Under the new pressures, the plan spread beyond its original bounds. "It became clear that cutting the roads from Nicaragua wasn't enough," said one source. "It was necessary to raise the cost to the Sandinistas and the Cubans of meddling in El Salvador."

Problems: That meant, at the least, cross-border harassment—and that, too, proved more difficult than Washington planned. First, according to sources in Honduras, the Argentines reduced their participation in the covert training program and in the overtraining of the Honduran Army after the outbreak of the Falklands War. (Washington officials said, however, that there were about 20 Argentine trainers in the country last week and that the numbers had not changed appreciably during the Falklands War.) Then the Miskito Indians, who had been forcibly driven from their homes along the Honduran-Nicaraguan border, proved eager but unpromising modern soldiers. "The Indians aren't very quick learners," says one knowledgeable source.

Such problems soon led to strange bedfellows. When the covert policy was first developed, direct U.S. dealings with exiled Somocistas were officially ruled out. "Our guidelines are pretty damn firm," says one senior U.S. official. "At no time has there been an authorization to deal with the Somocista people." But Negroponte, under pressure from Haig and Enders to produce some successes against the Sandinistas, turned to the only promising group available—the Somocistas. "It was Negroponte who began dealing with the guardsmen and the Somocistas," says one U.S. official. "That wasn't the original plan. He had to improvise." Sources in both Washington and Honduras say the ambassador has been careful to deal with the Somocistas through intermediaries to preserve his deniability. Asked about U.S. support for Somocistas or other contras last week, Negroponte said: "No comment, comment and a big fat no comment." On his own contacts, he said, "The only Nicaraguan I know personally is the Nicaraguan ambassador to Honduras. The only Nicaraguan I deal with in any official way is the ambassador."

At the same time, the Reagan administration looked for a leader around whom to build the opposition. No one connected with the hated Somocistas would do. The most attractive candidate was Pastora—Commander Zero. After leaving the government in 1981, he suddenly surfaced in Costa Rica last April, denounced his former comrades as "traitors and assassins" and announced "I will drag them with bullets from the

mansions and Mercedes-Benzes." The CIA first tried to cultivate Pastora after he left the Sandinista government, but he would not cooperate. After Negroponce began to deal with the Somocistas, any chance of recruiting Pastora probably was lost.

Alienated: Negroponce now has frozen him out of the action. Pastora and other disillusioned Sandinistas, such as former junta member Alfonso Robelo, have been told that "Honduras is closed to us, we cannot work here," says one of them. Newsweek has learned that Pastora has made two clandestine trips to Honduras since spring, to try to win support and establish base camps. Both times he was kept under virtual house arrest by the military. "He couldn't make a phone call, let alone organize a contra group," says one Honduran military officer. "The orders came from Alvarez himself that our American friends did not want this guy to have any part of the game." As a result, despite Washington's intentions, Negroponce has alienated the only group likely to attract widespread support inside Nicaragua. "There's no question that Nicaragua is ripe for a change," said one European observer in the region. "But the U.S. is supporting the only wrong, the only truly evil alternative."

After Negroponce and the Somocistas became partners, the new American allies began to force Washington's hand. The Somocistas bivouacked in Honduras were already trained soldiers, backed by wealthy exiles in Miami. With the added boost of tacit U.S. support, they soon took a commanding position among competing contra groups. They also developed their own private plan numero uno: to move the contra camps that remain in Honduras across the border into Nicaragua, then move the camps already established in Nicaragua farther down toward Managua and, finally, past the capital into the south. When the time is right, the Somocistas say, they will draw their loose circle of camps together in toward Managua and force the Sandinistas out. And then? "Come the counterrevolution, there will be a massacre in Nicaragua," promises one contra officer. "We have a lot of scores to settle. There will be bodies from the border to Managua."

That obviously was not what Washington had in mind. Despite the dirty little war on the ground, there is little support in Washington either for a massive contra invasion or for a border war between Nicaragua and Honduras. Instead, the constant pressure on Nicaragua from the border areas is designed to keep the four-year-old Sandinista government in a jumpy state of alert. While U.S. officials maintain that the primary objective of the operation remains cutting off the supply routes, they also hope that a threatened Sandinista government will bring itself down by further repressing its internal opposition, thereby strengthening the determination of moderate forces to resist. If that happens, says one U.S. official in Central America, "then the Sandinistas will fall like a house of cards in a wind."

Thin line: Although the Reagan administration and the Somocistas disagree on strategy, U.S. involvement with the contras has escalated. When equipment—helicopters and radios for example—breaks down, Americans repair it. Americans established the guerrillas' training regime, and arming the contras was easy: the massive American buildup of the Honduran military freed older Honduran equipment, which was shipped off to counterrevolutionary bases. The Americans were soon treading the thin line between instructing insurgents and plotting the missions they were being trained for. Though Americans are expressly forbidden to go out on operations, one

veteran of other paramilitary operations said: "Inevitably that happens . . . You lose your credibility with the people you're training if you hole up entirely."

Negroponce insists that his strategy precisely follows Washington's orders. But other sources claim that Negroponce censors embassy cables so that Washington will only know what he wants it to know, and that he seems to operate with little interference or second-guessing from superiors. "Haig and Enders gave Negroponce full autonomy," said one high-level insider in Honduras. Added another: "A lot of us think the ambassador should have a little more E.T. in him—that he should phone home now and then. But I'm sure his contention would be that 'home' would say, 'Go ahead and do what you think is best.' He only has to answer to himself."

In either case, virtually every knowledgeable official says that the operation needs firmer restraints. "It is reminiscent of the cable that went out, 'Order turkeys for the division' but got garbled so we ordered a division to Turkey," said one official.

The Hondurans themselves fear that their country might slip into the Central American line of fire. In September Honduran leftist guerrillas took more than 100 businessmen and officials hostage for eight days in San Pedro Sula. Tegucigalpa was blacked out after a power plant was dynamited. The Hondurans say they have evidence that both operations were masterminded by Salvadoran and Nicaraguan leftists. The Hondurans also claim to have cracked six safe houses in the past two months and found huge stocks of weapons and literature that connects the caches with the Sandinistas.

Any more violence could touch off a confrontation over security measures between General Alvarez and the still unsteady civilian government. Guerrilla attacks already have led to growing repression. For the first time in Honduras's modern history, right-wing death squads now appear to be operating. "There is a low level of violence and subversion now, and it would be an easy step to more aggressive government actions than are needed," worried a U.S. official—"followed by more aggressive subversion." America's secret war might thus have the intended effect—in the wrong country.

The operation has stirred up its intended target as well. The Sandinistas have used the contra attacks as an excuse to spend an estimated \$125 million on defense this year, beefing up the Army and civilian militia while attacking what remains of a free press and private business. But Sandinista repression has not led to a noticeable upsurge of anti-Sandinista activity inside the country—perhaps because Nicaraguans now only see a choice between the Sandinistas and the hated U.S.-backed Somocistas. "Our operations along the Honduran border have only played into the hands of the Sandinistas," says one dismayed U.S. official.

Terrified: But other American officials see light at the end of the tunnel. The Sandinista leaders are "terrified to their Marxist cores," says one. They have made their first attempts in months to try to re-establish communication with the private sector—and with the United States. U.S. Ambassador to Nicaragua Anthony Quainton, who had been refused any official meetings with the Sandinista leaders, was astonished to find junta member Bayardo Arce waiting for him, unannounced, in the Foreign Ministry recently. On the verge of panic, one source said, Arce asked, in effect, "What is the price we have to pay to stay in power?"

Tensions could peak within the next few weeks. On Dec. 5 the United States and Honduras will begin joint military maneuvers near one of the most sensitive stretches

of the Nicaraguan-Honduran border. The five-day maneuvers will include the U.S. Army, Navy and Air Force; they will simulate the freeing of an army garrison from cross-border invaders. A growing number of people on both sides of the border fear the simulation might preview a real war. Ronald Reagan will be visiting nearby Costa Rica on Dec. 4. Two months after he authorizes the operation against Nicaragua, Reagan was asked how he felt, generally, about covert action to destabilize regimes. He answered: "No comment."

[From Newsweek, Nov. 8, 1982]

OUR MAN IN TEGUCIGALPA

John Negroponce, the U.S. ambassador to Honduras, doesn't look like the Ugly American. At 43, he is tall and baldish; his manner is studiously bland. His deliberate, pausively filled conversation, says one frequent dinner guest, "prompts a keen desire for coffee." But another who knows Negroponce better calls him "a Machiavelli—only shrewder." He is street smart. He speaks fluent Spanish, French, Greek and Vietnamese. He reads Shakespeare. Says one Honduran official who has followed his progress, "He must love 'Julius Caesar.'"

Negroponce's 12-month tenure in Honduras has been a bit imperious. At the inauguration of President Roberto Suazo Cordova last January—the first civilian president in nine years—a messenger handed the new leader a four-page letter from the U.S. Embassy drafted by the new American ambassador. Encouraging a prompt "revitalization" of the ailing economy, the letter using the imperative form of Spanish—corrected the government of Honduras to take 11 specific actions, such as reducing taxes on mining companies and lifting some price controls. The government dutifully complied with many of the demands. Negroponce's influence steadily grew, and, it appears, so did his involvement in covert actions against Nicaragua. "I'm not saying that the guy who gives all the orders here, even for covert ops, is Negroponce," says a Western source who knows "But that guy wears Negroponce's suits and eats his breakfast. I'd you get the picture?"

Negroponce's arrival in Tegucigalpa was something of a surprise. Few expected an ambassador of quite his caliber. "Anyone who thinks that I'm extremely ambitious just doesn't know me very well," he says mildly. But no one has ever called him underachiever. "Knowing this administration's preoccupation with Central America and its worries about Honduras in particular, he set out to make a mark in Honduras that would be noticed all the way to the top," says a colleague who has known him for years.

Career: Educated at Exeter and Yale, Negroponce joined the Foreign Service at the age of 21 and rose quickly. He was a favorite political officer in Saigon at the height of the war in Vietnam. He was sent as an emissary to the Paris peace talks, where he assisted that the United States was giving too much to the communists. The young Negroponce was rewarded with a post at the National Security Council. After a falling out with his onetime mentor, Henry Kissinger, who was then national-security adviser, Negroponce was exiled to Ecuador as political counselor, but he bounced back to become U.S. consul general in Thessaloniki, Greece.

Since coming to Honduras, Negroponce has worked hard to establish himself something more than our man in Tegucigalpa. Fellow envoys are particularly galled by his habit of sending upbraiding cables

when he disapproves of their actions. His efforts have not been as successful as he might have hoped: Hondurans in frequent contact with the ambassador say he was "deeply disappointed" and "personally hurt" that President Reagan chose to make Costa Rica his only stop in Central America during a planned five-day tour of Latin America at the beginning of December. The ambassador may be in for more disappointment. "His obsession to get to the top fast will be the very thing that brings him crashing down," concludes a foreign diplomatic colleague in Honduras. "The question is whether he might not bring a policy and the fragile government of Honduras down with him."

[From Newsweek, Nov. 8, 1982]

GETTING IN DEEPER—A TIMELINE FOR TROUBLE

Although the United States has steadily increased its military and economic commitments in Central America, the troubled region has only grown more volatile.

1978. The Carter administration authorizes the CIA to support moderate opposition groups in Nicaragua opposed to the dictatorship of Gen. Anastasio Somoza.

July 1979. Leftist Sandinista guerrillas topple Somoza and seize power. Hoping to influence the Sandinistas, the Carter administration continues U.S. aid.

March 1980. The junta in El Salvador announces agrarian reforms, triggering an upsurge in left- and right-wing violence. Congress freezes U.S. aid to Nicaragua, which is backing Salvadoran leftists.

January-March 1981. The Reagan administration takes office as the Salvadoran leftists launch a major offensive. U.S. Secretary of State Haig declares Washington will not remain passive in the face of communist subversion and threatens to "go to the source"—Cuba. The United States sends more military advisers and increased military aid to El Salvador.

August 1981. U.S. Assistant Secretary of State Enders visits Managua and promises aid and U.S. noninterference in Nicaraguan affairs if the Sandinistas will end their support for the Salvadoran leftists. The Sandinistas ignore the offer.

December 1981. At an OAS meeting in St. Lucia, the Nicaraguan foreign minister outrages Haig by flatly denying Managua is helping the Salvadoran rebellion. The Reagan administration announces it will train 1,500 Salvadoran government troops; secretly, it authorizes a \$20 million CIA plan to create a 500-man paramilitary force based in Honduras to cut off Nicaraguan supplies to the Salvadoran leftists. The plan's unofficial goal: to undermine or overthrow the Sandinistas.

February 1982. Reagan unveils the \$350 million Caribbean Basin development plan.

March 1982. The Sandinistas declare a state of emergency after antigovernment guerrillas infiltrating from Honduras dynamite two key Nicaraguan bridges.

April 1982. Edé Pastora, the legendary "Commander Zero" who defected from the Sandinistas in 1981, surfaces in Costa Rica; the CIA tried unsuccessfully to enlist him to lead the Honduran-based opponents of the Sandinistas. At about the same time, U.S. Ambassador Negroponte makes contact with former members of Somoza's Nicaraguan National Guard living in exile in Honduras.

August 1982. U.S. Air Force C-130s ferry Honduran troops to the Nicaraguan border where they can protect the anti-Sandinista forces from Nicaraguan retaliation. Washington plans to increase military aid to Honduras to \$40 million in fiscal 1983. The Nicaraguan ambassador in Washington tells re-

porters a virtual state of war exists between Nicaragua and Honduras.

October 1982. Reagan sends letters to Mexico and Venezuela expressing his "great interest" in their recent proposal for restoring peace along the Nicaraguan-Honduran border and his support for a "fully verifiable regional agreement" that will ban arms imports and the use of foreign advisers in Central America.

[From Newsweek, Nov. 8, 1982]

THE CUBAN CONNECTION

Nicaragua's Sandinistas have always had their reservations about Fidel Castro. But the revolutionary bond between them is tight. U.S. officials say some 4,000 Cuban doctors, teachers and other civilian specialists help make Nicaragua run, while 2,000 military advisers bolster the police and Army. Cuban backing has fueled Nicaragua's own, extensive military buildup. And Cuban support has bolstered Nicaraguan assistance to leftist guerrillas in El Salvador. As Assistant Secretary of State Thomas Enders sees it, revolutionary Nicaragua has become little more than "a forward base of operations" for Cuba.

The administration has argued its case in a Haig-era report ominously titled "Cuba's Renewed Support for Violence in Latin America." According to the report, Castro helped unite the three Sandinista rebel factions under an effective fighting command in 1978. Cuba then pumped arms and advisers to the rebels through bases in Costa Rica. After the Sandinista triumph in 1979, Julian López Díaz, the head of Cuba's support mission in Costa Rica, became the first Cuban ambassador to the new Sandinista regime. "Nicaragua really did something to the Cuban leadership," says one U.S. official. "It was a psychological shot in the arm for Castro and his guerrilla elite."

Unprecedented: The Sandinistas promptly netted \$28 million in military equipment funneled through Cuba from the Soviet Union and Eastern Europe, according to U.S. sources. The military buildup included 25 Soviet-made T-55 and T-54 tanks, 12 Soviet BTR armored personnel carriers, light airplanes, helicopters and SAM-6 and SAM-7 anti-aircraft missile batteries. Tons of arms also arrived to supply a beefed-up 25,000-member Sandinista Army, backed by an unprecedented 80,000-strong civilian militia. Photographs from U.S. spy planes showed the Sandinistas lengthening airfields at Puerto Cabezas, Montelimar and Bluefields to carry MIG-21 fighters. U.S. officials claim that 50 Nicaraguan pilots are being trained in Bulgaria to fly the jets in at a time of the Sandinistas' choosing—threatening to overtake Honduras' air superiority in Central America.

Despite Cuban and Nicaraguan denials, the administration remains convinced that Salvadoran insurgents are supplied through Nicaragua with air, land and sea shipments of arms. Evidence has been harder to deliver, but in one U.S. example, Honduran police reportedly intercepted a truck coming from Nicaragua in January 1981 that carried Salvadoran rebel supporters, 100 U.S.-made M-16 rifles, 50 81-mm mortar rounds and 100,000 other rounds of rifle ammunition. U.S. intelligence also charges that Nicaragua helped establish one of Honduras's new rebel bands, the Morazanist Front for the Liberation of Honduras.

The United States draws a formidable picture of the Cuban-Nicaraguan threat. But some experts are not so impressed. During a recent visit to Nicaragua, Lt. Col. John Buchanan, a retired Marine Corps pilot and critic of U.S. policy, was flown on an inspection tour in a Nicaraguan Air Force Cessna

that crashed after landing. Buchanan found the Sandinistas' T-55 tanks decidedly ill-suited to tropical warfare. "With friends who would supply you T-55s," he told a Sandinista commander, "who needs enemies?"

Rhetoric: The Cubans have repeatedly offered to help the United States ease tensions over Nicaragua and throughout Central America—but Castro has always insisted on ground rules, including an end to U.S. covert assistance to Nicaraguan counterrevolutionaries. Critics charge that Washington's alarmist rhetoric has distorted American perceptions. Wayne Smith, a retired head of the U.S. interests section in Havana, observes: "We have tended to exaggerate the level of Cuban involvement and assistance in El Salvador—but there is a question there has been some." The Sandinistas argue that the U.S. hostility forced them to take any allies they can get. "Some people here say Cuban assistance is an excuse to maintain a Sandinista dictatorship," says Father Xavier Gorostiaga, director of the Institute of Social and Economic Research in Nicaragua. "But in Nicaragua we say this is the only way to survive."

[From Newsweek, Nov. 8, 1982]

IS COVERT ACTION NECESSARY?

Why not destabilize Nicaragua? The Sandinistas are no friends of ours. They have cozied up to Castro and Brezhnev. They have funneled arms to the leftist rebels in El Salvador. They are building an army larger than they need for their own defense. By example, if nothing else, they pose a threat to right-wing rulers in places like Honduras and Guatemala—bad guys, to be sure, but our bad guys, and arguably no worse than the other kind. Which is the lesser evil: to unleash a little thuggery on the Sandinistas, who play by those rules, or to wash our hands of dirty tricks, for fear of getting into deeper trouble?

Why not arm the rebels in Afghanistan? As a matter of fact, we're doing that. Why not make trouble for Muammar Kaddafi? We're doing that, too. Why not send secret financial aid to Solidarity? If we're doing that, most Americans would approve—except they would rather not know. There are worse things than covert action. But if a democratic nation is to meddle in the affairs of another country, it must abide by certain rules: don't violate your own principles. Don't make things worse. Don't get caught.

Subversion: The Central Intelligence Agency defines covert action as "any clandestine operation or activity designed to influence foreign governments, organizations, persons or events in support of United States foreign policy." That covers everything from planting a pro-American editorial in a foreign newspaper to staging coups or raising secret armies. Democratic ideology often do not square with covert action. Some conspiracies launched in defense of American democracy end up subverting democracy elsewhere. In Chile, for example, the CIA destabilized the government of elected president, Salvador Allende, a Marxist who eventually was deposed and assassinated. But no covert action is a complete success unless it remains a secret, and secrets are hard to keep in an open society. In the case of Chile, the CIA tried to cover up by lying to Congress, and eventually a lot of American, former CIA Director Richard Helms, had to plead no contest to a false testimony charge. Covert action can be touted for the best, but the only truly successful operations run by the CIA are the ones we still don't know about.

Before World War II, intelligence work consisted mostly of gathering information and thwarting enemy spies. The wartime Office of Strategic Services, the CIA's predecessor, broadened the franchise to include propaganda, political action and dirty tricks of almost every description. After the war, the CIA helped the democracies of Western Europe to stave off communist subversion by subsidizing socialists, Christian Democrats and labor unions. In its heyday, which lasted until the mid-1970s, the CIA launched literally thousands of secret programs, most of them low-budget political and propaganda operations. But it didn't hesitate to stage coups and raise private armies, especially in the Third World. There were fiascos, notably at the Bay of Pigs. Yet the CIA also managed to overthrow leftist regimes in countries like Guatemala and Iran and to wage a long "secret war" in Laos by transforming primitive tribesmen into a surprisingly effective army.

Rebirth: In the wake of Vietnam and Watergate, there was a virtual moratorium on the messier kinds of covert action. CIA operatives were discharged by the hundreds. Congress required that it be informed of every covert action. It was Jimmy Carter, the champion of human rights and open government, who presided over the rebirth of covert action. With Soviet troops occupying Afghanistan and American diplomats held hostage in Iran, the CIA began to rebuild its secret sources of power and persuasion. In Ronald Reagan's first year, the intelligence budget was increased by 20 percent, but according to one knowledgeable source, the number of clandestine operations has not increased dramatically since Carter left office.

In addition to the Nicaraguan adventure, Newsweek has learned, the CIA is currently running paramilitary operations in about 10 countries, including Afghanistan. The Afghanistan mission involves only a handful of CIA agents, but it has spent hundreds of millions of dollars on weapons shipped to the rebels through third parties, such as Egypt. Two separate covert actions have been aimed at Libyan leader Kaddafi. One was designed to stir up trouble for him in Chad (Libya has since withdrawn its occupation forces from that country). The other authorized contacts with Libyan dissidents in exile, in hopes of putting together a legitimate opposition. Briefing one congressional committee, CIA Director William Casey said such activities might lead to the "ultimate" removal of Kaddafi.

As a last resort, the destabilization or overthrow of a foreign government may be necessary, whether it involves subtle subversion or something nastier. Perhaps the same result could be achieved in broad daylight by military action or overt diplomacy. But if the public doesn't want to go to war, and if diplomacy offers insufficient leverage, covert action is the only alternative to backing down. Such plots may offend a democracy's sense of decency—and seem expedient all the same. If the aim of a covert action is in line with what Americans generally consider necessary, prudent and moral, most of them will tolerate the means.

Plot: Even so, a free society should not sacrifice its principles lightly. Plots against foreigners may not be as necessary as some practitioners of the covert arts would have us believe. In 1960 the CIA decided to kill Patrice Lumumba, the former prime minister of the Congo, who appeared to be on the verge of regaining power and handing his country over to the Soviet Union. The U.S. plan to poison Lumumba was never carried out—in part, perhaps, because key CIA operatives thought murder was going too far. "I didn't regard Lumumba as the kind

of person who was going to bring on World War III," CIA station chief Lawrence Devlin told a congressional committee years later. "I saw him as a danger to the political position of the United States in Africa, but nothing more than that." Eventually, Lumumba was arrested by his political opponents, who announced in due course that he had been killed after escaping from jail. "Murder corrupts," said another reluctant CIA officer, but "I'm not opposed to capital punishment." The Congo, now known as Zaire, remains a loyal, if politically shaky, friend of the United States.

Another drawback to covert action is that it often makes things worse—or at least no better. The killing of South Vietnamese President Ngo Dinh Diem, after a U.S.-sponsored coup, did not leave us with more effective allies in Saigon. Flirting with supporters of the hated Somoza clan will probably weaken the U.S. position in Nicaragua, not strengthen it. Furthermore, in a democracy, it is almost impossible to guarantee that a covert action will remain covert.

Keeping secrets requires the acquiescence, if not the connivance, of the press. In 1953 a New York Times reporter named Kenneth Love decided not to write about the CIA's role in deposing leftist Iranian Prime Minister Mohammed Mossadegh—out of "misguided patriotism," Love said later. The story came out anyway. In 1961 John F. Kennedy persuaded the Times that a lot of what it knew about the impending Bay of Pigs operations shouldn't be printed. The Times withheld a big part of the story, the invasion was a disaster, and Kennedy concluded that the newspaper would have done him a favor if it had blown the whistle.

Whistles are blowing more frequently these days. Covert actions almost always come to light—in news reports from distant countries now wired into the global village, or in leaks from critics in Congress, the administration or the intelligence agencies themselves. Reporters know that the story will come out, and that if they don't print it, a competitor will. Even today, the news media will generally suppress a story if publication would put lives at risk or expose a secret that is indisputably vital to the national interest. Beyond that, some reporters and editors say that they will withhold a story if the covert action in question strikes them as necessary, prudent and moral. The press has no business making such value judgments. Its role in an open society is to print the news, fully and fairly, not to calculate the incalculable consequences and shave the truth a bit here and there.

Policy: A nation with global responsibilities still needs covert action as a third tool of foreign policy—one more forceful than diplomacy and less hideous than war. It is possible to conduct secret operations in a society like ours, but only the great difficulty. That is the way it should be for missions that so commonly violate basic democratic principles. The CIA may be at a disadvantage in competing with the machinations of closed societies, but no instrument of democratic government can be allowed to operate totally at odds with the ideals it is supposed to espouse and protect.

(From the New York Times, Nov. 2, 1982)
U.S. BACKING RAIDS AGAINST NICARAGUA
(By Philip Taubman)

WASHINGTON, NOVEMBER 1.—The United States is supporting small-scale clandestine military operations against Nicaragua intended to harass but not overthrow the Nicaraguan Government, senior Reagan Administration officials said today.

The officials denied a report in Newsweek magazine that the central Intelligence

Agency was trying by covert means to topple the leftist Government in Managua.

A senior national security official insisted that the scope of clandestine operations was limited to hit-and-run raids into Nicaragua by small paramilitary units based in Honduras, skirmishes with Nicaraguan troops along the Honduran border, and financial support for political opponents of the Sandinist Government.

The official said that no Americans were directly involved in the paramilitary operations, but acknowledged that the CIA was providing money and military equipment to the units. He added that Americans were also helping to train the anti-Sandinist forces, which are made up primarily of Nicaraguan refugees.

WITHIN LIMITS OF PLAN

The official contended that the military and financial aid fell within the limits of an overall plan for covert operations in Central America approved by President Reagan almost a year ago.

The plan, parts of which were disclosed in press accounts earlier this year, called for formation of a small paramilitary unit in Honduras to interdict Cuban supply lines to guerrillas in neighboring El Salvador and financial support for moderate political and business institutions and leaders in Nicaragua, according to Administration officials.

"We are not waging a secret war, or anything approaching that," a senior intelligence official said. "What we are doing is trying to keep Managua off balance and apply pressure to stop providing military aid to the insurgents in El Salvador."

Administration officials reacted strongly to assertions in Newsweek that the covert operations were "out of control" and that an expansion of the activities had been "imposed" by the American Ambassador in Honduras, John D. Negroponte.

CLEARED WITH WASHINGTON

"Negroponte, as the chief of mission, oversees the operations, but nothing is done without clearing it in Washington first," a senior intelligence official said.

Some Administration officials have advocated a more ambitious effort against the Sandinist Government, which seized power in 1979 after overthrowing the Government of Gen. Anastasio Somoza Debayle.

But Mr. Reagan and other top officials reportedly rejected the use of greater force partly because they considered it potentially counterproductive to overall American policy, and partly because intelligence officials said that the CIA did not have adequate resources to undertake a major paramilitary operation.

The result, some Administration officials said, was a limited covert operation, designed to sting but not incapacitate the Sandinists.

According to national security officials, the clandestine military activities were not supervised primarily by Argentina, which had organized anti-Sandinist paramilitary forces in Honduras 18 months ago, before the American involvement.

Initially, Argentina did take the lead in supplying and directing the units, which number 2,000 to 4,000 men, dispersed in several camps along the Honduras-Nicaragua border, according to American officials. Argentine assistance waned after disputes developed between American and Argentine advisers and after the United States supported Britain in its war with Argentina.

over the Falkland Islands, Administration officials said.

[From Time Magazine, Dec. 6, 1982]

FEARS OF WAR ALONG THE BORDER

(By James Kelly)

The rumors are everywhere: a whisper in a café here, a banner headline in a newspaper there. Throughout Nicaragua and Honduras, there is fearful talk of a war breaking out between the two neighbors. In Nicaragua, the Sandinista government has declared five provinces bordering Honduras "military emergency zones." The regime is advising citizens to stockpile rice and other foods, while the papers in the Nicaraguan capital of Managua are filled with stories about alleged CIA plots. In Honduras, airfields are being built close to the border and soldiers gather in bars in the capital city of Tegucigalpa to talk strategy. The mood was perhaps best captured by a priest during Mass at the Church of St. Nicholas of Tolentino in Managua. "Please, God," he intoned, "do not let an invasion happen."

Nicaragua's war jitters are being fueled by the country's increasingly edgy, leftist Sandinista regime. Managua, however, has received a boost from a U.S. covert operation that began modestly enough as an effort to cut off the arms flowing through Nicaragua to leftist guerrillas in El Salvador, but that now appears to have grown into an attempt to topple the Sandinista government. As a result, the border between Honduras and Nicaragua has suddenly become a tinderbox where a few skirmishes could easily erupt into a full-scale shooting war. Even if war does not break out, critics contend, not only have the U.S. activities strengthened the resolve of the Sandinistas in Managua but the operations now threaten to destabilize Honduras itself.

Though the Sandinistas overthrew Dictator Anastasio Somoza Debayle and seized control of Nicaragua in July 1979, it was not until Ronald Reagan took office in January 1981 that relations between the two countries seriously deteriorated. The Administration began charging that the Sandinistas, backed by Cuba and the Soviet Union were funneling arms to leftist guerrillas in El Salvador, often shipping the weapons across the southern heel of Honduras. In December 1981, Reagan gave the go-ahead for a series of covert operations to snip the supply line and intimidate the Sandinistas. Included were financial aid for opposition groups within Nicaragua and military assistance to the various contras (counterrevolutionaries) who conduct raids into Nicaragua from bases in Honduras. For a "covert" operation, the U.S. effort was curiously, perhaps deliberately, open. News of Reagan's decision began to leak out in Washington last March. In Honduras, the American agents were easily spotted because of their jeans, plaid shirts and short haircuts.

Until the U.S. came along, the contras could hardly be considered a threat to Managua. In the years following Somoza's downfall, small bands of former National Guardsmen operated along the Honduran border, making hit-and-run attacks inside Nicaragua. The Somocistas, as they were known, were demoralized and poorly organized. The U.S. set about forcing the various factions to unite under a central command, while the CIA began recruiting students, farmers and other civilians to beef up the force. Then, early this year, the Puerza Democrática Nicaragüense (F.D.N.) was established to serve as a respectable political front group for the contras. Though the Guardsmen supposedly do not hold leadership positions

in the F.D.N., they do, in fact, run some military operations.

The exact extent of U.S. involvement with the contras remains unclear. One option paper presented by the CIA to the National Security Council in November 1981 projected expenditures of \$19.95 million to support a 500-man force. It is unknown what was eventually approved, but the strength of the contras has grown impressively in recent months. A U.S. intelligence source in Honduras estimates that there are now about 200 CIA personnel in Honduras, four times as many as previously reported. Bi-weekly flights from Panama bring in rifles, machine guns, mortars and grenade launchers. The contras themselves have grown in number, from about 500 in 1980 to as many as 4,500 now. Until last month, they operated from ten camps set up on the Honduras side of the border. But after the Sandinistas pinpointed the bases, they were moved to other locations, usually just a few miles away.

The Sandinistas have helped the insurgency with their heavyhanded campaigns against the Miskito Indians and campesinos (peasant farmers). Suspecting separatist sentiments among the country's 100,000 Miskitos, most of whom live in the northeast region, Managua ordered the Indian towns burned and the villagers interned, but the measures only drove more Miskitos over to the contras. The campesinos are disgruntled by the Sandinistas' attempts to force them into communal farming; as a result, many of the 1,500 F.D.N. troops operating in the north-central section of Nicaragua are peasant farmers. Once recruited, they undergo a five-week CIA training course in Honduras. The instruction emphasizes ambush maneuvers but also includes marksmanship, compass work and radio operations. The campesinos return to Nicaragua in groups of 40 (including both men and women) under the supervision of five former Guardsmen.

In addition, the Reagan Administration enlisted the aid of Argentina to act as a sort of bagman for the operation. U.S. funds first were sent to the Argentines, who in turn funneled them to the contras. Argentina also sent 200 military advisers to Honduras, but it reduced its contingent to a skeleton crew during the Falklands war last spring. Meanwhile, Washington established its own links with the Honduran military. Honduran soldiers were sent to training camps in Panama run by the U.S. Army's Southern Command Group (SOUTHCOM) and standard field equipment was provided.

But at some point, according to a U.S. intelligence source in Honduras, the U.S. started to lose its grip on the entire effort and its goals. The F.D.N., for one thing, is interested not just in intimidating the Sandinistas but in starting a real war against Nicaragua. "We will start to pick up the tempo before December," predicted an F.D.N. official. "We will be in Managua by spring."

War or no war, the operation has already had unfortunate side effects on Honduras' fragile democracy. After years of military rule, the Hondurans elected Roberto Suazo Córdova last January as their first civilian President since 1971. The troubles in neighboring countries have given Chief of the Armed Forces Gustavo Alvarez Martínez an excuse to extend his authority. He has won changes in the constitution that broaden his power, and is using the threat of a Sandinista invasion to bolster his military forces and consolidate his power within the country.

In spite of all its efforts, Washington, ironically enough, may be backing the wrong contras. "They are making the big-

gest possible mistake," observed a leading opposition figure of the Sandinistas in Managua. "The Nicaraguan people are first anti-Somocista, and only secondly anti-Communist." It is commonly believed that for the contras to succeed, a considerable number of Sandinista soldiers would have to enroll in the cause. One of the few men who could make that happen is Edén Pastora Gómez, 46, a popular hero of the Sandinista revolution who grew disenchanted with the revolution and fled Nicaragua in July 1981. Pastora has since surfaced in Costa Rica, and the CIA would apparently like to enlist his aid. But Pastora adamantly refuses to sign up. He shuns the F.D.N., which he sees simply as a front for the CIA and the Somocistas. Alvarez Martínez, for his part, wants nothing to do with the one-time Sandinista whom he considers a Communist.

Meanwhile the fear of war remains. If there is a shooting war between the two countries, Honduras will be at a decided disadvantage against the larger and better equipped Nicaraguan army. In that case, the U.S. could be tempted to intervene more openly. For Washington, that prospect underscores the perils of becoming too deeply involved in the region's complex and volatile affairs.

[From the New York Times, Dec. 8, 1982]

THE WORST-KEPT SECRET WAR

When asked the other day if he could confirm a report in The Times that the C.I.A. mobilizing a secret war against Nicaragua, President Reagan replied: "No, and I don't think The New York Times can." But the growing evidence of American involvement can't be shrugged off so blandly. There's nothing secret any more about the training of exile armies in Florida and the recurrent border raids into Nicaragua by insurgents claiming C.I.A. help; all this has been widely reported for months.

Whatever American agents may be doing to help Honduras prevent the use of its territory for arms smuggling to El Salvador, it seems beyond doubt that they are also engaged in some direct actions in Nicaragua. The manifest purpose is to threaten a frontal assault on the leftists Sandinista regime. Undeniably, some of the leaders of the insurgent force are Nicaraguans associated with the discredited Somoza dictatorship.

These are, to begin with, illegal activities. The Neutrality Act expressly forbids the raising of secret armies to unseat a regime that the United States recognizes as lawful. Flouting that law is no way to rally the hemisphere against meddling by Cuba in Nicaragua in other nations' conflicts.

Even if these secret armies were never meant to be used in a big way, they are a dangerous instrument of diplomacy. Give people with a political grudge a gun as they maneuver to fire it. If they do, they are impossible to disown. Even if they don't, they are extremely difficult to disband.

If the idea here was to use the threat of insurgency to win bargaining concessions from Nicaragua, the idea is bound to fail. Such threats tend to confirm the deepest fears of suspicious adversaries and make them more truculent, not accommodating.

It is perfectly true that an acceptable doctrine of non-intervention has to be respected by all parties, if it were proven that Nicaragua is indeed violating the territory of Honduras to funnel weapons to El Salvador, some reprisal in kind might be justifiable. But the evidence suggests that it is Nicaraguan territory, not Honduras, that is being systematically violated.

A final justification for covert warfare might be a clear showing that truly vital

American interests are at risk, and beyond the reach of diplomacy. No such showing has been made, either to the American people or to our Latin friends. To the contrary, President Betancur of Colombia, an independent-minded conservative, last week risked Mr. Reagan's displeasure by appealing for negotiations with both Nicaragua and Cuba.

That was a foretaste of how Latin America would react to unilateral United States interventions. Mr. Reagan, by way of polite reply, expressed his wish to see "the withdrawal of all—I repeat all—foreign military advisers in Central America."

Nicaragua contends that it is prepared to negotiate. A proper response would find Washington testing that claim, documenting its charges of Nicaragua's interference in other countries and persuading other Latin nations to join in condemning the import of Communist arms. The improper response is to deny the undeniable, in the false hope that the C.I.A. hand can somehow be hidden. That illusion should have died at the Bay of Pigs.

Mr. DODD. Mr. President, what does it all add up to? What do these and similar reports mean? Well, there does not seem to be much mystery about it—the administration, through the Defense Department and the intelligence community, is supporting if not sponsoring an "overt-covert" military operation in Central America. All in all, it adds up to "The Worst-Kept Secret War", as the New York Times labeled it in a very thoughtful editorial on December 8.

Mr. President, for a variety of reasons, U.S. involvement in "The Worst-Kept Secret War" provides additional evidence that, when it comes to Central America, this administration is hell-bent on pursuing the wrong policy at the wrong time in the wrong place:

It belies any fundamental understanding of the social, economic, and political forces at work in the region;

It signals our interest in promoting military solutions to political problems;

It identifies us with the status quo, if not reactionary, forces in the region;

It puts us at loggerheads with the major democracies in the region, namely Mexico, Venezuela, and Colombia;

It plays into the hands of Fidel Castro and his cohorts who, while they did not create the deplorable conditions in Central America, are fully prepared to take advantage of them; and

It evidences a complete disregard for binding treaty commitments which bar us from intervening in the internal affairs of the nations of this hemisphere.

Mr. President, let me put the administration's policy in political perspective.

To believe that U.S. support for paramilitary forces in Central America is sound policy is to believe that Tacho Somoza and his crowd were Jeffersonian Democrats who simply got a bum rap;

To believe that covert military operations in Central America make good sense is to believe that democracy is more a function of bullets than of ballots; and

To believe that military aid to right-wing insurgents provides a foundation for democratic rule in Central America is to believe that if you leave the airport lights on long enough, Amelia Earhart will return.

None of these is true. And no amount of wishful thinking, or of slick rhetoric, or of ideological commitment, or of under-the-table military assistance will make them true.

What is true is that when it comes to Central America, this administration has yet to untie its shoelaces;

What is true is that this administration is prepared to the last man to defend the military slum landlords of Central America, just as it is prepared to label those who stand up for human rights as dupes of an alien ideology; and

What is true is that when the cheering stops and the smoke clears, this administration's epitaph for Central America will read: "We had to destroy this region in order to save it."

Mr. President, the time has come to put a stop to this underhanded military adventurism—to call a halt to it—to say, "Enough is enough; no more." For this purpose I offer the amendment before us.

Simply put, this amendment lays out a straightforward policy position. I draw my colleagues' attention to the actual language of the amendment:

Congress hereby declares that no funds should be obligated or expended, directly or indirectly, after January 30, 1983 in support of irregular military forces or paramilitary groups operating in Central America.

Clearly, this provision is directed exclusively at the question of U.S. support for extra-legal military and security operations in the Central American nations. On the other hand, this provision would not—I repeat, would not—affect our normal, ongoing military assistance, training and sales programs, which are designed to aid and assist the regular, duly-authorized armed forces within the region. No, these programs are not at issue in the amendment I am offering.

Mr. President, the time has come for the Senate to face up to the issue of U.S. support for covert military operations in Central America. It is an issue of paramount importance and it deserves to be divorced from the ideological caste in which it has been placed.

If we cannot make this separation, if we cannot divorce the substance of the issue from its ideological bearings, then the issue itself will continue to be defined in terms of "One man's terrorist being another man's freedom fighter." And so today, the Reagan administration, because of its particular

ideological moorings, has decided to aid and abet the remnants of the Somoza national guard. But what about tomorrow? And what about the ideological underpinnings of future Presidents and future administrations? They may decide to provide covert military aid to a peasant militia in Brazil or to radicalized Christian Democrats in Chile.

In my view, Mr. President, it makes no sense to support either. Such support simply gets us embroiled in a local situation over which we have no control. Nor should we. Ultimately, the people of Nicaragua, or the people of Honduras—of El Salvador—Brazil or Chile must determine their own fate. The best we can do is set an example, a standard—and make sure that that example, that standard faithfully embodies and reflects the traditions and values which our people and our country strive to uphold.

Support for extralegal military or security forces is not a part of our value system. And it should not be—it is a road to nowhere—it takes us into an ideological wasteland.

Mr. President, for these reasons I offer my amendment to put Congress on record as opposing U.S. support for paramilitary groups operating in Central America.

To sum up: Such support is contrary to our national interests; contrary to the values of our people and contrary to our normal governmental processes and procedures. It lays the ground work for an unmitigated foreign policy disaster. Commonsense ought to tell us that gunboat diplomacy is no more popular in Central America today than it was at the turn of the century.

Mr. President, I hope my amendment will be adopted by a wide margin.

Mr. President, I would like to urge, I may, that the proponents of the substitute come forward because I would like the opportunity to question them about a number of points that I think should be raised with regard to the substitute. I urge my colleagues to take a close look at both of the amendments, the one that I have offered and the one that will be offered as a substitute.

Mr. MOYNIHAN. Mr. President, it is my understanding that there is a tie agreement in this matter which is undivided. My distinguished friend from Rhode Island (Mr. CHAFFIN) is on the floor. He and I shall share the time in a collegial manner with the Senator from Connecticut (Mr. DODD).

Mr. President, may I ask, how much time has expired?

The PRESIDING OFFICER. Will the Senator be clear on whose time is speaking?

December 18, 1982

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CONGRESSIONAL RECORD — SENATE

S 15359

Mr. MOYNIHAN. Mr. President, it is my understanding that there is no agreement on time sharing, but that we will simply share in a friendly manner.

The PRESIDING OFFICER. The Senator is correct.

Mr. MOYNIHAN. Mr. President, may I inquire how much time has expired of the 30 minutes?

The PRESIDING OFFICER. The Senator from Connecticut has 7 minutes and 50 seconds left.

Mr. MOYNIHAN. I thank the Chair.

NOTICE

Incomplete record of Senate proceedings. Senate proceedings for today will be continued in the next issue of the Record.

Senate

SATURDAY, DECEMBER 18, 1982

(Legislative day of Tuesday, November 30, 1982)

FURTHER CONTINUING
APPROPRIATIONS, 1983

(Continued)

UP AMENDMENT NO. 1543

Mr. MOYNIHAN. Mr. President, I send to the desk an amendment in the form of a substitute and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) for himself and Mr. CHAFEE, proposes an unprinted amendment numbered 1542 as a substitute to amendment numbered 1541. The amendment of Mr. DODD is amended as follows:

Strike entire amendment and inset in lieu thereof the following:

"None of the funds provided in this Act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military activities, for the purpose of overthrowing the government of Nicaragua or provoking a military exchange between Nicaragua and Honduras."

Mr. MOYNIHAN. Mr. President, I shall speak briefly, then hope to hear from my colleague, the Senator from Rhode Island (Mr. CHAFEE).

The PRESIDING OFFICER. The Chair wants to correct a mistake he made on the time. The time is not equally divided. There are 22 minutes now remaining as previously stated.

Mr. MOYNIHAN. I thank the Chair, that was my understanding.

Mr. President, may I ask my colleagues to hear me when I say that Senator CHAFEE and I are speaking for the Select Committee on Intelligence. I see another distinguished member of that body, the Senator from New Mexico (Mr. SCHMITT) is present, also. When Congress established the select committee in 1976, it was created to oversee and make studies of and to provide vigilant legislative oversight over the intelligence activities of the United States. This committee was properly designed to be bipartisan and to be select, in evidence of which you find me speaking on behalf of the committee as vice chairman. The rules, singular in this regard, provide that in the absence of the chairman, the vice chairman presides. I wish to report to this body two things.

First, in this Senator's judgment, our committee had provided vigilant oversight of U.S. activities in Central

America as well as elsewhere and we have given, in confidential annexes and classified annexes to the appropriations bill under which the Central Intelligence Agency now operates, the most explicit instructions as to what it may and may not do in Central America.

Those instructions obtained, and, Mr. President, those instructions were repeated by the House at the behest of the chairman of the House select committee, our distinguished friend, Representative BOLAND, and language in the present resolution to that effect is before us.

It is the judgment of the select committee that that language is adequate and it is also our judgment, unhappily, that it is necessary to repeat it, but that it is sufficient to do that. The more generic proposals such as the one of the Senator from Connecticut, while one might not differ from their purpose, would not serve the objective of intelligence oversight and instruction in the present law.

I see the Senator from Rhode Island is on the floor. I welcome his further thoughts.

Mr. CHAFEE. I thank the Senator. Mr. President, may we have order?

Mr. MOYNIHAN. May we have order, Mr. President? This is a matter of very gravest concern to this body.

The PRESIDING OFFICER. The Senate will suspend and give time for Senators to either be seated or to leave the Chamber.

The Senate will be cognizant of the request of the Senator from New York that the Senate is not in order and that this is a very important issue.

The Chair believes that the Senator from Rhode Island now wants to be recognized.

Mr. CHAFEE. Mr. President, what is the time situation?

The PRESIDING OFFICER. The time situation is that the Senator from Connecticut has 18 minutes—

Mr. CHAFEE. It was a half-hour evenly divided, was it not?

The PRESIDING OFFICER. That is not the understanding of the Chair.

Mr. DODD. Will the Senator yield?

Mr. CHAFEE. I want to know what the time is. How much time do we have on this side?

The PRESIDING OFFICER. As the Chair was beginning to state, we have 18 minutes 49 seconds remaining.

Mr. CHAFEE. Are we not dividing this time evenly?

The PRESIDING OFFICER. It will not be divided equally is the understanding of the Chair.

Mr. CHAFEE. This is a curious arrangement.

Mr. MOYNIHAN. We were just being accommodated.

Mr. CHAFEE. All right, Mr. President, if the Chair would be good enough to alert me at the end of minutes, I would appreciate it.

The PRESIDING OFFICER. The Chair will do that.

Mr. CHAFEE. Mr. President, I think there are two factors to consider here first, what is the proposal of the Dodd amendment?

The Dodd proposal says, "Congress hereby declares that no funds should be obligated or expended, directly or indirectly."

Mr. President, that is an extreme injunction to impose on the activities of the United States, directly or indirectly.

Now, I was not able to hear the presentation of the Senator from Connecticut, but in previous discussions he has indicated that this is only laudatory language, just language admiring that the language is just that the Congress declares and that no funds "should" rather than no funds "shall."

But, Mr. President, we do not pass language like this without having a severe impact on the activities of the United States. When we say no funds should be obligated or expended, directly or indirectly, in support of the irregular military forces operating in South America, that is in effect an injunction about any activities of the United States aiding or abetting or in support of irregular military forces or paramilitary forces.

Mr. President, I do not think we have ever had an injunction like this.

Mr. President, may we have some order in the Chamber?

Mr. MOYNIHAN. Mr. President, we must have order.

Mr. CHAFEE. I wish those Senators wanting to negotiate would negotiate elsewhere.

The PRESIDING OFFICER. The Chair will try to accomplish what the Senator from Rhode Island and New York request. The Chair tried once before. He evidently was not successful, so I think we should just stop until the necessary quiet is obtained because it is a foreign policy issue and

• This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

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requires reliance upon the expertise of our colleagues who are on the Intelligence Committee.

Is the Senator from Rhode Island satisfied now?

Mr. CHAFEE. Yes. I appreciate the Chair's accommodation.

The PRESIDING OFFICER. The Senator from Rhode Island asked the Chair to remind him when he used up 4 minutes. The Senator still has about 2½ minutes remaining.

Mr. CHAFEE. Mr. President, a similar suggestion like this came up in the House of Representatives, and the chairman of the House Intelligence Committee, Congressman EDWARD BOLAND from Massachusetts came forward with a substitute, which is the substitute in effect which we have at the desk today.

What this says is that none of the funds provided in this act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military activities for the purpose of overthrowing the Government of Nicaragua or for military exchange between Nicaragua and Honduras.

The Senator from Connecticut, I presume, is going to say, "Well, that is big enough to drive a truck through."

Mr. President, the question really before us is, is this body going to insert a complete prohibition of activities against this Nation? We are making no concession that activities are taking place anywhere, but are we going to tie the hands of the President? After all, it is the President who is at the top of the heap in this. And those of us on the Intelligence Committee do not believe that we should do so.

I do not believe we have ever imposed a draconian restriction such as proposed by the Senator from Connecticut in the past with "no activities, direct or indirect."

Mr. President, speaking also in behalf of the Intelligence Committee, which, as the distinguished Senator from New York indicated earlier, is a nonpartisan committee, we have a situation where, when the chairman, a Republican, of the committee cannot be present because of illness in Arizona, the vice chairman, a Democrat under the rules of the committee, which we all approve of, speaks for the committee. I am here speaking as the ranking Republican on that committee.

Mr. President, I rise in support of the substitute which the Senator from New York has, I presume, sent to the desk. This has the support of our committee and I believe takes care of the situation that concerns some Members of this body.

Mr. MOYNIHAN. Mr. President, may I be allowed 1 second to say the amendment at the desk is submitted by me on behalf of myself and the Senator from Rhode Island.

Mr. PELL addressed the Chair.

Mr. MOYNIHAN. Mr. President, I observe that the distinguished ranking member of the Committee on Foreign Relations desires 1 minute; our colleague from New Mexico desires 1 minute. I desire no more time until the Senator from Connecticut shall have had a chance for rebuttal.

Mr. DODD. Mr. President, is it my understanding that the substitute of the Senator from New York has at this juncture been reported at the desk?

Mr. MOYNIHAN. That is correct. May I ask the Chair, is that not correct?

The PRESIDING OFFICER. The Senator from New York is correct.

Mr. MOYNIHAN. May I yield a minute to the Senator from Rhode Island and then a minute to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I thank my colleague from New York.

I strongly support the thrust of both amendments because I would certainly vote against the heinous activity of overthrowing governments. If I did not have to leave for family reasons, I would have voted for the Moynihan language, because it is the strongest and more specific of the two proposals.

If it by any chance failed, I would most certainly have supported the amendment of the Senator from Connecticut of which I was a cosponsor.

Mr. MOYNIHAN. I thank the Senator from Rhode Island.

The PRESIDING OFFICER. Did not the Senator from New York yield to the Senator from New Mexico?

Mr. MOYNIHAN. One minute.

Mr. HELMS. Mr. President, will the Senator yield for that purpose?

Mr. SCHMITT. I am happy to yield.

Mr. President, we have a confusing set of circumstances here. We have two amendments double tracking, neither of which should be considered without adequate discussion, and the situation that has now developed is that any of us who want to point out that we are playing with fire with either one of them will not have a chance.

I hope we can divide this time so I can have at least 5 or 6 minutes to discuss the implications of both of these amendments.

The PRESIDING OFFICER. Is the Senator making a request that he gets 5 minutes of the time remaining?

Mr. HELMS. I am trying to get the Chair to tell me how both of us who question both amendments can have a say.

Now the ball is being bounced between the two amendments as it now stands, Mr. President, and we are playing with fire in foreign policy.

I happen to be chairman of the Western Hemisphere Affairs Subcommittee, and I know a little bit about the situation in Central and South America; and I think we should have a chance to express our opinion on both

of these amendments and not play them off one against another.

The PRESIDING OFFICER. Is the Senator requesting time?

Mr. HELMS. I request that I have 7 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. RUDMAN. Mr. President, reserving the right to object, I cannot agree to that without talking to the distinguished chairman of the Appropriations Committee, which I will.

If the Senator sets his request aside, I will try to get information from him. My instructions from the chairman are that no time agreements entered into are to be modified without his consent.

Mr. HELMS. That is a fair proposition. I know the Senator to be fair. I thank him very much.

Mr. SCHMITT. Mr. President, before I speak on my time, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHMITT. Could we have the specific language of the time agreement read to the Senate that concerns this particular matter?

The PRESIDING OFFICER. If the Senator will withhold we can send for a transcript.

Mr. SCHMITT. Yes. I think there may be time on the substitute amendment. The waiting may allow for discussion on this. I have no idea.

Mr. PROXMIRE. Mr. President, I apologize to my good friend, if the Senator will yield for 1 minute for a procedural request.

Mr. SCHMITT. I am happy to yield.

Mr. PROXMIRE. Mr. President, Members told me they have to leave and they will object to any additional time on this amendment. It is an important amendment. They want to be here to vote. That is their privilege. They are going to object.

So there will be no further time allowed on this amendment.

Mr. SCHMITT. Mr. President, on my 1 minute, the Senate established the Intelligence Committee to act as its oversight arm relative to intelligence activities conducted by the United States and counterintelligence activities conducted by the United States.

It is extremely important that we recognize this committee for what it is, a bipartisan literally, as the Senator from Rhode Island has said, a nonpartisan shield.

Again, Mr. President, this bipartisan and indeed nonpartisan committee was established specifically to be a shield between the Intelligence Committee and abuses or misjudgments that might come from that community. It is really the only mechanism that I have been able to conceive of, and I am extremely proud of this body for having conceived of it long before I arrived here, the only mechanism by which a democracy, a representative

democracy can have such a shield to protect itself and its people from abuses during activities that are counter to the basic principles of a democracy but activities that we must have in order to protect ourselves in this world.

So I hope this body not only on this matter but on other matters in the future will rely on the judgment of the Select Committee on Intelligence. We must do that. There really is no other way to handle this kind of a problem.

I thank the Senator for yielding. The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, may I inquire what time remains?

The PRESIDING OFFICER. Eleven minutes and nineteen seconds.

Mr. DODD. Eleven minutes?

The PRESIDING OFFICER. Eleven minutes and nineteen seconds.

Mr. DODD. I thank the Chair.

Mr. President, first of all, let me point out to my colleagues there is a substantial difference, as I noted, between what was offered in the other body by Mr. BOLAND of Massachusetts and what is being offered here.

I draw my colleagues' attention to an extremely important clause included in the House language that is not included in the Senate language.

The House language reads:

Or other support for military training.

The first part of its is exactly the same as the Senate substitute.

Or other support for military activities to any group or individual not part of a country's armed forces.

That clause is missing in the Senate language.

In effect, what we are doing with the Moynihan substitute is prohibiting any funds from going to the Honduran Army, for that matter, from the Department of Defense in this general area. That is far broader than anything I intended to do.

I am talking in my amendment specifically about paramilitary groups, insurgency groups, and this clause missing in this particular proposition I think makes it even more dangerous than what I had suggested at the outset.

I remind my colleagues it is a simple enough proposition. I am merely offering a sense-of-the-Senate resolution putting us on record in a very flexible way that says we do not believe that there should be funds expended in Central America to support counterinsurgency groups or paramilitary groups at this particular hour. It also allows, if the agencies or others come back or they want to make a case for it, for flexibility.

What is being proposed by the distinguished Senator from New York and the distinguished Senator from Rhode Island is more restrictive in one sense and yet it allows for that activity to go on virtually unchecked.

The Senator from New York has said in his amendment that we will not

support or fund activities which would result in the overthrow of the Nicaraguan Government or promote a conflict between Nicaragua and Honduras.

I ask my distinguished colleague from New York or the distinguished Senator from Rhode Island, does support for groups who support and are actively involved in the overthrow of another government constitute a violation of the law should the Senator's amendment be adopted?

Mr. MOYNIHAN. I answer yes, and I take the further position and say that the reason the clause in the House amendment has been left out is that it could be read to interpret that we are free to provide funds to the government of the army of Honduras or name which country you will for the purpose of overthrowing the Government of Nicaragua, et cetera.

We deny any such rights.

Mr. DODD. I would not object to the unanimous-consent request to modify the Senate substitute to include that operative paragraph. That was included in the House language.

Mr. MOYNIHAN. I might say my friend misunderstood me. If he would read it carefully it suggests it is all right to give it to the army but not to irregular forces. We deny either.

Mr. RUDMAN. Mr. President, if the Senator from New York will withhold for 1 minute, I ask unanimous consent that the Chair not charge this time against this amendment or against the floor managers.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUDMAN. Mr. President, the problem with time has now arisen. There is an objection being lodged against the granting of some additional time to accommodate the request of the Senator from North Carolina. Presently there is something in the vicinity of 8 minutes remaining under this time agreement. The Senator from North Carolina has requested he have at least a few moments to speak.

I wonder if we might accommodate him since there is some confusion as to how this time agreement is presently being allocated.

Mr. DODD. Mr. President, I certainly do not object to asking for it. I will yield to him or others for a period of time. We all wish to be able to explain our proposition here. I wish to have several days to discuss this, quite frankly, and I wish there were another vehicle to do it on; 30 minutes is hardly enough time to discuss all of this.

Mr. RUDMAN. Mr. President, I am going to ask unanimous consent that we extend 5 minutes to this time agreement.

Mr. PELL. Mr. President, I must object specifically to extension of time to this time agreement.

Mr. MOYNIHAN. Mr. President, I will tell the manager that we are happy to yield 2 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator will be in order.

Mr. MOYNIHAN. There is 11 time remaining.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New Hampshire has the floor.

Mr. RUDMAN. Mr. President, made my request, there has been objection. I understand the sponsors of the amendment are willing to yield 2 minutes to the Senator from North Carolina, and I will let him speak himself, and again until we settle this this should not be charged against the amendment.

The PRESIDING OFFICER. (Symms). Without objection, it is so ordered.

Mr. HELMS. Mr. President, am I understand I am to be granted 2 minutes out of 30 to oppose the amendment?

Mr. MOYNIHAN. Mr. President, must have order. We have to hear the Senator from North Carolina, it is important and so abbreviated.

Mr. HELMS. I do not know whether it is important, but it is important to me, and I thank the Senator from New York.

Let me tell Senators they had better not consider these amendments as just a roll-through because we are playing with fire. We are about to lose Latin America.

I know the Senate would like to detach itself from this question, have nothing to do with it, and make it look good and far away in Nicaragua, Honduras, Costa Rica, Guatemala, and all the rest. But we have been debating this matter in the Foreign Relations Committee for months, and now us to now undertake to adopt a foreign policy matter on this continuing resolution is playing with fire.

We are about to lose to the Marxist the entire length and breadth of South America. To tie the hands of the intelligence forces, and to tie the hands of the administration, when the administration is trying to work this thing out is utter folly.

Now, Senators may do what they wish, but I warn you, you will rue the day when you start enacting foreign policy decisions into a continuing resolution.

So, Mr. President, I reiterate my position to the proposed amendment. Of course, many of our colleagues sympathize with any Senator who wants to keep the United States away from the tumult in Central America as possible; but there is more to this matter than the immediate conflict in that region, and cannot consider this matter too without allowing the discussion some pertinent points.

First of all, Mr. President, the Socialist government of Nicaragua is patently, de facto, committed to democratic principles. In fact, on many occasions, their leaders bemoan about their affection for Marxism-Leninism, and they practice very well

systematic terror and control which characterize such totalitarian regimes; they practice it at home, with block committees, persecution of the church, forced separation of family members, and wholesale forced marches of whole populations from their traditional homelands; abroad they perpetrate all manner of encouragement and supply of guerrilla movements throughout Central America, all ordained to overthrow democratic regimes whose combined defenses do not amount to the number of men under arms in Nicaragua.

Second, Mr. President, the Sandinista government is collapsing of its own weight. Once the heir of a revolution which promised democracy in Nicaragua, the Sandinistas now will have nothing of elections, and are constantly fighting any group on record in favor of basic human rights—free speech, free exercise of religion, democratic processes, and so on. And the people of Nicaragua, far from happy with the situation, are, as one would expect, anxious to find another path to the freedom and democracy which their revolution sought 3 years ago. In fact, Mr. President, the Sandinista government is an illegitimate government; it came to power by force of arms, and maintains its power by brute force. It is the Nicaraguan people, Mr. President, who want to restore legitimacy to the government of Nicaragua.

Now, Mr. President, I want to ask a question: If we—the United States—are supportive in any way to the forces of freedom in Nicaragua—if we provide information, moral support, encouragement and cooperation and the like, to the groups seeking legitimate institutions within Nicaragua—could this not be interpreted by enemies of freedom in that country as aiding the overthrow of the Sandinista government? I am specifically mindful of President Reagan's speech in London on June 8 of this year, where he called for the establishment of democratic and free regimes throughout the world, including those behind the iron curtain—where Nicaragua is quickly becoming an unwilling addition. Does President Reagan, in calling for democracy in Nicaragua, help to overthrow its antidemocratic, totalitarian regime? Personally, I hope that the United States will always stand for freedom, how attractive the cause that would thwart it.

Mr. President, I think it is clear that the President needs no admonition on how much to spend on what dimensions of the ongoing struggle for freedom and democratic institutions in Central America. He certainly needs no moralistic pronouncement like that before us today, which will do nothing but serve the friends of the Sandinistas as they continue to trumpet their disinformation and vituperative propaganda against the United States around the world.

The United States does not, and should not, try to overthrow the Sandinista government. In my judgment, unless the Sandinista government proves irreconcilably and belligerently devoted to the destruction of the peace, harmony, and freedom of all the countries in Central America, a goal which is central to U.S. interests in the region. Perhaps the Sandinistas have already passed the point of no return—sometimes they seem determined to make us think so, in any case. But, in the last analysis, it is President Reagan who is responsible for the conduct of our foreign policy, and he should be free to exercise that direction by all the means normally open to the Chief Executive, especially in such a tense situation as that in Central America, where so many interests of the United States and all the countries who love freedom in this hemisphere are at stake.

I do not know whether I used up that grand 2 minutes or not, but that is my message.

Mr. DODD. Mr. President, let me say what I said at the outset. I wish you did not have to deal with it on this particular vehicle, but we do not have another vehicle before us.

I would say to my friend from North Carolina that in one sense I agree with him. I think failure to adopt language and make it clear to certain elements of this Government that we are not going to tolerate the kind of behavior of conducting a secret war in this hemisphere would be disastrous. I would join with the Senator in saying that we will lose this war to the Marxists if we proceed on the course we are pursuing, if we conduct and encourage a war in Central America. This body had better take a stand, if we find the stories that they are telling us, are true.

In that event we are the ones who are encouraging and goading the elements into it. We are going to be right back here in months deciding whether or not to back up our initial actions, and I will tell you we had better know what we are doing there in terms of supporting or encouraging guerrillas as counterinsurgency forces. We are supplying them, we are encouraging them to destabilize and to overthrow a government. After they do that, do you know what we will do? We will leave them there and we will find other countries coming into Nicaragua and attacking them. We will then sit back and say, "We do not know what you are talking about," and you will have Marxist governments in Central America, mark my word. This could be a second Gulf of Tonkin resolution if we do not put a stop to it now.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. DODD. I yield.

Mr. HELMS. Yes; mark my words. Let me hark back to the delivery of \$75 million of American money to the Sandinistas that propped them up. They were on their last legs, and I

think the Senator knows that, and there was an effort made to gird them up and help them so that they could move over into Honduras and do their dirty work, along with Castro in Cuba.

I say we are playing with fire if we adopt either of these amendments.

Mr. DODD. Mr. President, does the Senator from North Carolina believe it is in our interest to support the Somoza counterinsurgency forces on the Honduran borders? Does the Senator think we ought to do that?

Mr. HELMS. Will the Senator repeat that, will you repeat that question?

Mr. DODD. Does the Senator from North Carolina believe we ought to financially back, train, and advise the Somozista forces on the Honduran border?

Mr. HELMS. The Senator from North Carolina is simply saying do not try to tie the hands of those who are trying to keep—

Mr. DODD. That was not my question. Does the Senator from North Carolina think we ought to be doing that?

Mr. HELMS. I think the Senator from Connecticut and the Senator from New York ought to let the Intelligence and Foreign Relations Committees try to deal with this sensitive subject, and not try to pass it on the floor at this crucial time when it cannot possibly be given adequate consideration.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, so that there will be no confusion, the substitute which has been sent to the desk by the Senator from New York on behalf of himself and the Senator from Rhode Island has the support of the administration. Second, this is the same resolution, with even a tighter provision in it, that was adopted by the House by 411 to 0, the so-called Boland language.

So I do hope when the vote comes and the procedure, if I understand it correctly, Mr. President, will be that the first vote will be upon the substitute, and I urge my colleagues to vote aye on the substitute and then, Mr. President, parliamentary inquiry, just to see if I have this correct, the first rollcall, vote will be on the Moynihan-Chafee substitute; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. The vote will be yeas or nays. If the yeas prevail then the next thing that will come up will be a vote on the total amendment which, in effect, will be another vote on the Moynihan-Chafee substitute?

The PRESIDING OFFICER. The Senator is correct.

The PRESIDING OFFICER. It will be on the Dodd amendment, as amended.

Mr. DODD. Mr. President, what time remains?

The PRESIDING OFFICER. Three minutes.

Mr. DODD. Mr. President, let me just—

Mr. DENTON. A parliamentary inquiry, Mr. President. I would request a response as to what the time agreement was by which the Senator from Connecticut propounds an amendment for which the Senator from North Carolina spoke to for about 2 minutes in rebuttal and the rest of the time has been given to propounding of an amendment to that amendment by the Senators from New York and Rhode Island? I do not understand how there is any equality or proportionality with respect to the kind of issue being discussed here. It seems that although the administration may support one view, there are points of view here positive and negative. There is no proportionality to the representation being given by the procedure.

The PRESIDING OFFICER. There originally was an order for 30 minutes equally divided. After the amendments were offered then there was an order that the time be abrogated and no provisions remained for divided time.

Mr. DENTON. May I suggest to the floor manager that perhaps some other more altruistic and useful unanimous-consent agreement can be obtained.

Mr. RUDMAN. Mr. President, will the Senate be in order? We cannot hear the Senator from Alabama.

The PRESIDING OFFICER. Will all Senators please suspend. Can we have order in the Chamber? Will all those Members of the staff in the back please suspend conversations. All Senators will remain quiet so we may hear the floor managers and the Senator from Alabama. The Senator from Connecticut has the floor.

Mr. RUDMAN. I want to respond to the Senator from Alabama as the acting floor manager. Let me point out what occurred here was that amendments were proposed by the Senator from Connecticut which was opposed by the Senator from New York, the acting chairman of the Intelligence Committee, and joined in by the ranking Republican, the Senator from Rhode Island. They opposed that, and had a substitute, and thus when the time agreement was made it was divided essentially between those two parties, who then among themselves decided to aggregate their time. That may be unusual but it was probably reasonable under the circumstances.

Mr. PELL. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The regular order is a half-minute remaining to the Senator from Connecticut.

Mr. DODD. Thank you. This happened last night when we were working out the unanimous-consent agreement time allocations. Objection was raised when an extension of the time allotted to my amendment was suggested. We then tried to work out some agreement between the respective sides here, and it was finally understood that there would be 30 min-

utes for both amendments and we tried to equally divide the time which we have done fairly well.

Let me finally say in support of my amendment, I am not here this morning or this afternoon to support the Sandinistas or other groups or the Hondurans, for that matter, or the groups residing in their country at this time.

What I am concerned about is our foreign policy, and all I am suggesting by this amendment is that we have a better understanding of what we are starting. If we do not have a sense of what we are doing when we start, we inevitably run into the problem of how we deal with events as they overtake us.

All I am concerned about here is I believe, based on information I have outside of the intelligence community, that we are encouraging certain paramilitary groups operating in Central America, particularly on the border of Honduras, to conduct certain forays into Nicaragua to overthrow that government. That is what they want to do.

Whether or not that is our intention is irrelevant at this point. We are supplying and supporting those elements and they are provoking a conflict.

All I am suggesting here is, if that happens, if, in fact, the conflict developments, are we then prepared to follow up with what we have started?

The PRESIDING OFFICER. All time has expired.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I move to table the underlying amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina (Mr. HELMS) to table the amendment of the Senator from Connecticut (Mr. DODD). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. BRADY), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Washington (Mr. JACKSON), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that if present and voting, the Senator from Washington (Mr. JACKSON) would vote "yea."

I further announce that if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 56, nays 38, as follows:

(Rollcall Vote No. 445 Leg.)

YEAS—56

Abdnor	Ford	McClure
Andrews	Garn	Murkowski
Armstrong	Grassley	Nickles
Baker	Hatch	Nunn
Bentsen	Hatfield	Packwood
Boren	Hawkins	Percy
Byrd	Hayakawa	Pryor
Harry F. Jr.	Heflin	Quayle
Chiles	Helms	Roth
Cochran	Hollings	Rudman
Cohen	Huddleston	Schmitt
D'Amato	Humphrey	Stennis
Danforth	Jepson	Stevens
DeConcini	Johnston	Symms
Denton	Kasten	Thurmond
Dole	Laxalt	Tower
Domenech	Long	Wallop
East	Lugar	Warner
Exon	Mattingly	Zorinsky

NAYS—38

Baucus	Glenn	Pell
Biden	Gorton	Presler
Boehwitts	Hart	Proxmire
Bradley	Inouye	Randolph
Bumpers	Kassebaum	Riegle
Burdick	Leahy	Sarbanes
Byrd, Robert C.	Levin	Sasser
Cannon	Mathias	Simpson
Chafee	Matsunaga	Specter
Dixon	Melcher	Stafford
Dodd	Metzenbaum	Tsongas
Durenberger	Mitchell	Weicker
Eagleton	Moynihan	

NOT VOTING—6

Brady	Goldwater	Jackson
Cranston	Helms	Kennedy

So the motion to lay on the table (UP amendment No. 1541) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Will the Senate please be in order?

Mr. HATFIELD. Mr. President, when we began debate on this measure, I asked unanimous consent that an explanatory statement in lieu of a report be printed in the RECORD. For some reason, this was not done. This statement includes all our guidance and direction to agencies with the full force and effect of that usually included in the form of a formal written report.

It is most important, therefore, that this statement be printed in the RECORD.

I ask unanimous consent that the statement of the floor managers be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT OF THE RECOMMENDATIONS OF THE COMMITTEE ON APPROPRIATIONS ON H.R. RES. 631, MAKING FURTHER CONTINUING APPROPRIATIONS AND PROVIDING FOR PRODUCTIVE EMPLOYMENT FOR THE FISCAL YEAR 1983

The Committee on Appropriations, to which was referred the joint resolution

I.

[BOLAND AMENDMENT](floor debate
are on
next page)

SECRET

PUBLIC LAW 97-377—DEC. 21, 1982

96 STAT. 1865

Sec. 793. None of the funds provided in this Act may be used by the Central Intelligence Agency or the Department of Defense to furnish military equipment, military training or advice, or other support for military activities, to any group or individual, not part of a country's armed forces, for the purpose of overthrowing the Government of Nicaragua or provoking a military exchange between Nicaragua and Honduras.

II.

[CLASSIFIED ANNEX TO
HPSCI REPORT]

"None of these funds may be used--directly or indirectly--for any effort to destabilize or overthrow the Government of Nicaragua. No funds may be used except for the interdiction of arms and the activities of the political front. Further, the funds for paramilitary operations must be used so as to avoid provoking a military exchange between Nicaragua and Honduras, and possibly a Honduran request for the introduction of U.S. military forces. Finally, the Agency must assure itself of sufficient control of the paramilitary groups and knowledge of their operations so as to ensure that these requirements are met."

III.

[CLASSIFIED ANNEX TO
CONFERENCE REPORT]

The conferees are worried about the Nicaraguan role in shipping arms to insurgents in El Salvador. ~~The conferees agreed with an effort to interdict arms shipments and disrupt the networks which support such shipments.~~ The conferees also support the formation of a political front to bring together moderate elements in favor of a pluralistic, democratic Nicaragua. Funds authorized for this program may only be used for these purposes.

~~It is the sense of the conferees that such funds should not be used to overthrow the Government of Nicaragua or to provoke a military exchange between Nicaragua and Honduras.~~

SECRET

TS-82-0941